

The Audiovisual Code (AC)

The need for the adoption of an audiovisual code has been discussed for a long time.

After coming into force, both of the Law on Audiovisual Broadcasting in October 1995 and the Status of the Audiovisual Coordinating Council in December 1996, it was found that they do not ensure the necessary conditions for the development of an independent electronic press nor do they protect it against political interference. The amendments made along the way have not improved those laws as the authors often pursued group interests, especially their interest in taking over the national radio and TV company. Discussions concerning a broad revision of broadcasting legislation intensified in the context of the failed process of transforming the State Company "Teleradio Moldova" into a public institution. The voices from inside were accompanied by increasing criticism regarding the lack of progress in the field of press freedom and mass media independence addressed to the Republic of Moldova by the Council of Europe, OSCE, EU and the USA. In spite of promises made by the ruling party and the re-election of the president in 2005, one more year had to pass before the issue of adopting a new legal framework in broadcasting was included in Parliament's agenda. Failing to meet, perhaps, some sort of an internal deadline, the legislators began to examine the draft Audiovisual Code, developed by a group of Members of Parliament from the factions of the Communist Party, Christian Democratic People's Party and Democratic Party, without consulting the organizations with expertise in this area.

On 4 April 2006, several media organizations requested Parliament to postpone for one month the examination of the draft Audiovisual Code, which was to be debated upon in the plenary session of the Parliament on 6 April. According to a memo signed by eight media organizations, civil society was not involved in the process of development of the draft Audiovisual Code, this taking place "with total lack of transparency", and the content of the draft Code, published on Parliament's website on Tuesday, 28 March, constituted "a surprise" for the respective organizations. The memo's authors showed their surprise about the hurry in which this legislative draft was put on the roll in Parliament, without regard for the agreement on cooperation between the Parliament and the civil society that reserves fifteen days for civil society to present its contributions. "Taking into account the special impact of this document for the democratization of our society, we consider absolutely timely the organization of consultations, hearings and debates on the provisions of the draft Audiovisual Code in context with the other draft audiovisual laws, present in the Parliament," the memo read. Among the signatories were the Independent Journalism Center, Association of Electronic Press, Association of Independent Press, Union of Journalists of

Moldova, "Access-Info" Center, "Media-Impact" Association, Press Freedom Committee and the Journalistic Investigation Center.

The scope and heat of the debates which followed Parliament's decision to adopt the draft AC in the first reading, promising to consult subsequently with civil society, is proof that the new draft law touches a sore spot in Moldovan society. Controversial opinions were expressed in connection with many provisions, especially those referring to the appointment of the members of the Audiovisual Coordinating Council (ACC), granting and cancellation of licenses, share of participation of a foreign legal entity or individual in the foundation of a broadcaster in the Republic of Moldova, and elimination of local public stations.

According to Constantin Pârțac, no matter how many promises the authors make, the appointment of ACC members by Parliament at the proposal of the special commission will not solve the problem that has been faced by the regulatory body in this field for the past ten years, namely, the control over and interference of government with its activity. "It is not the Parliament's vote that is to be feared, but the fact that the current version allows the appointment to the ACC of some dishonest people who are in the pocket of others as happened before," the expert said. According to Pârțac, it would be advisable to involve the professional organizations, media NGOs and unions of writers at least in the selection of the candidates for the position of ACC membership. (Info-Prim Neo, 14 April 2006).

Not a single serious company will invest in Moldovan broadcasting if it does not have the power to make decisions, John Maxemchuk, Director of the Mixed Company "Sun Communications" stated, referring to the fact that a foreign legal entity or individual is not allowed to have a participatory share that exceeds the necessary percentage for blocking decisions.

According to Maxemchuk, this provision would have a negative impact on the development of the audiovisual field due to the lack of foreign investments. And banning the activity of foreign investors is also a violation of some provisions of the World Trade Organization, he added. The lawyer Vladislav Gribincea stated that the draft AC, as adopted by Parliament in the first reading, "allows an excessively high margin regarding the rights and obligations of the Audiovisual Coordinating Council in so far as the granting and cancellation of licenses is concerned." In his opinion, this generates risks of having arbitrary and subjective decisions adopted by the regulatory authority in the field.

Many participants in the debates referred to the need for changing the terms of a broadcasting license. The draft Code

establishes that the license for radio broadcasting shall be issued for 7 years, for TV – 5 years, and for cable radio and TV broadcasting – 6 years. Most participants asked for a longer term for the TV license, putting forward as arguments the high expenses incurred for setting up a TV station and, respectively, the necessary time for the recovery thereof.

Victor Osipov, member of the Council of Observers of “Teleradio-Moldova” referred to the need for regulating the number of broadcasting licenses depending on the market possibilities, including that of publicity. “The current ACC has created an inflation of broadcasting licenses, especially in some regions of the country,” Osipov thinks (Info-Prim Neo, 20 May 2006).

“It is absolutely unclear why, at a certain point, the Moldovan society needs just one public broadcaster. Why hamper the right of the community and of local public authorities to have public radio and TV services in order to communicate with the society as well as to have a greater possibility to create the necessary community union in a locality?” the Chairman of the Association of Electronic Press, Alexandru Dorogan, stated (Info-Prim Neo, 6 April 2006). In the opinion of many commentators, this interdiction aims at settling accounts with and taking hold of the municipal stations Antena C and Euro TV, whereas one of the Audiovisual Code drafters explained that this was aimed at hindering the set-up of district radio and TV stations by the communist power.

Olivia Pârțac, lawyer at the Independent Journalism Center, presented, on 29 May during the National Conference, “The draft Audiovisual Code: expert examinations and contributions of the civil society.” This contained the propositions of civil society representatives collected during the public debates of April-May 2006 that were organized by the Public Policy Institute, with the financial support of the Swedish Agency for International Development and Cooperation and of the Soros Foundation.. She referred especially to releasing the ACC from “under parliamentary control” as well as to the removal of its power of “observer of public and private broadcasters” and of “supervision of the correctness of contents of the programs offered by the broadcasters.” Also, Olivia Pârțac said, the experts requested revision of the ACC powers with regard to the activity of “Teleradio-Moldova,” such as the appointment to and dismissal from functions of the Company’s management, monitoring of budget implementation, etc. The exclusion of the latest provision was especially insisted upon, on the grounds that public service must be supervised by an autonomous body, and the scheme proposed in the draft AC might favor the constitution of a sort of “power vertical.”

A number of proposals on behalf of civil society refer to the article relating to ACC make-up and procedure of appointment of its members. According to the civil society representatives, this article was one of the most criticized, by both the national and international experts because the formula set forth in the

draft law allows access to this body by unprofessional, dishonest and politically biased individuals. In this regard, the experts formulated three proposal variations, the main one stipulating that Parliament appoints and approves the ACC members, based on consultations with civil society. Also, proposals were made to amend the duration of the ACC member mandate from five, as provided by the draft, to six years. It was also proposed that, at the initial stage, three members be appointed for a mandate of two years, three members for four years, and the other three for a full mandate (Info-Prim Neo, 29 May 2006).

From the point of view of the Council of Europe experts, Eve Salomon and Karol Jakubowicz, “the draft Code should be seen as signifying continuous progress in terms of legal competence on the part of the drafters, a clear (if not always fully implemented) desire to approximate Moldovan broadcasting legislation to the European standards, and an awareness of the need for legal solutions to challenges facing broadcasting.” Also, “an important and most welcome feature of this draft is that it specifies procedures and criteria for licensing private broadcasters, which is a very significant development.” On the other hand, the draft “should be recognized as evidence of a much-needed effort to advance and improve the Moldovan broadcasting legislation.” The main “serious” shortcomings of the draft Code include the following: the intention to extend the scope of the broadcasting legislation to the Internet, and thus subordinate Internet content to regulation and oversight by the Audiovisual Coordinating Council; the ability of government to exert undue influence and control over the ACC and through it over all broadcasters, the Internet and especially the public service broadcaster; lack of regulation of local public service broadcasting; incomplete and sometimes erroneous alignment with the European standards; inadequate regulation of the issues of ownership and plurality; and lack of a prospective approach with a view to the digital switchover (www.parlament.md).

“Yes, the new draft Audiovisual Law is an improvement over the current legislation, but it still needs work to be brought up to the European and international standards,” the US Ambassador, Heather M Hodges, stated in her farewell message at the Academy of Economic Studies, on the afternoon of 12 May 2006. “The Government has affirmed many times its commitment to a free and independent media but, unfortunately, we still have seen little progress in this direction,” she stressed. “Teleradio-Moldova, which is nominally a public broadcaster, still shows a clear and measurable bias in favor of the government and the ruling party. Parliament should ensure that the Audiovisual Law incorporates the recommendations of the Council of Europe and OSCE experts, but that is not enough,” Ambassador Hodges said. “Even the best law is useless if it is not implemented and enforced properly.”

This is, in fact, the problem of the problems, which you cannot solve just by adopting a new Audiovisual Code.

Vladislav GRIBINCEA,
Lawyer, Public Association “Lawyers for Human Rights”

Analysis and comments

on the draft Audiovisual Code, the draft Audiovisual Law, and the draft Law on the Public National Broadcasting Institution “Teleradio-Moldova”

Overview

On 1 March 2004 and, respectively, 5 May 2005, a group of members of the Moldovan Parliament introduced, as legislative initiative, the draft Audiovisual Law and the draft Law on the Public National Broadcasting Institution “Teleradio-Moldova,” developed by the Association of Free Electronic Press (APEL).

On 27 March 2006, the draft Audiovisual Code was introduced into the Parliament as legislative initiative by nine MPs and the Parliamentary Commission for Culture, Science, Education, Youth, Sport and Mass Media.

On 6 April 2006, the Moldovan Parliament approved in the first reading the draft Audiovisual Code, as the main draft law, and the draft Audiovisual Law and draft Law on the Public National Broadcasting Institution “Teleradio-Moldova” as alternative draft laws.

This study aims at a comparative examination of the main provisions of the draft Audiovisual Code (AC) and of the alternative draft laws.

Independence of the broadcasting regulatory authority (Audiovisual Council)

The rules regulating the procedure of appointment and dismissal of the members of the broadcasting regulatory authority is a key element in ensuring its independence.

Provisions: According to the AC, candidates for the position of member of the Council are proposed by the special parliamentary commission, which is comprised of the number of mandates held in Parliament by the legally constituted factions, and are appointed by Parliament with at least a two-thirds vote of the total number of MPs. All members of the Council are appointed for a five-year term. The Council is funded from the state budget of the Republic of Moldova, and the Council's charter is approved by Parliament.

Comments: The members of the Council should not be selected on political criteria. The make-up of the Council is not to be determined by how the votes are distributed; i.e., the Council's behavior should be the same regardless of the structure of the legislative power. The election of candidates with a two-thirds vote of the total number of MPs could, to

a certain degree, determine the selection of politically balanced candidates. The appointment of all members of the Council for an initial term of five years makes the Council more receptive to the changes in the political arena. Council's funding only from the state budget and approval of the Council's charter by the Parliament may significantly affect the independence of the broadcasting regulatory authority.

Provisions: According to the alternative draft laws (Art. 11 of the Audiovisual Law), Parliament appoints five members of the Council as proposed by the parliamentary factions, including two from the opposition factions, and four members at the proposal of twelve specialized non-governmental organizations. Three members are appointed for mandates of two, four and, respectively, six years. The Council is funded from the state budget, but may also obtain income from the granting of licenses, provision of consulting services, and from other sources permitted by law.

Comments: The draft law puts forward a more complex procedure of designating the candidates which, however, brings into question their independence. The appointment of the members for an initial term of two, four and six years would make the council less susceptible to the political changes taking place in society. The multi-source funding may contribute to strengthening the Council's independence, and these sources of funding should be considered in complex in order to secure funding for the Council.

Indicators	Audiovisual Code	Alternative draft laws
Designation of candidates	- -*	+
Structural independence	-	+
Financial independence	-	0

* the evaluation is done according to the scheme from “-” to “+”b

Prerogatives and functions of the broadcasting regulatory authority

In a democratic society, the role of the broadcasting regulatory authority is reduced to the establishment of technical regu-

lations for broadcasters, issue of licenses, and monitoring of the observance by the broadcasters of their commitments and obligations. It is not excluded, however, that the Council also exercises oversight over the public broadcaster. It must, nonetheless, observe the editorial independence of the broadcaster.

Provisions: According to the AC, the Council approves the charter of the public broadcaster, appoints the management of the “Teleradio-Moldova” Company and oversees its activity. The Council also oversees the “correctness” of the contents of the programs offered by the broadcasters.

Comments: In the conditions of a fragile democracy and of an independent Council, the oversight of “Teleradio-Moldova” will require increased efforts, which will distract the Council from its main activities. On the other hand, the Council does not have sufficient means to substitute a true council of observers, which would have to determine the editorial policy of the public broadcaster. The Council should not oversee the “correctness” of the content of the programs offered by the broadcasters, but only verify how the broadcasters observe the broadcasting legislation, as there is a danger that this provision may be interpreted as being entitled to influence the editorial policy of the broadcaster.

Provisions: According to the draft Audiovisual Law, the Council is not to oversee the activity of “Teleradio-Moldova,” but a council of observers will be set up within the Company for this purpose. The Council has the task to ensure free access to public interest information.

Comments: The Council’s duties are, in general, conceived as oversight of the observance of law by the broadcasters, but the task to ensure free access to public interest information must not be interpreted as empowerment to force the holders of public interest information to make it public or available.

Indicators	Audiovisual Code	Alternative draft laws
Oversight duties	-	+
Oversight of the public broadcaster	-	

Private broadcasters. Licensing mechanisms. Relations with the broadcasting regulatory authority

The correct distribution of radio and TV frequencies is possible only when there is a clear procedure of obtaining a broadcasting license. The broadcasting regulatory authority will also have controls in order to determine that the broadcasters observe the law. These, however, must exclude any risk of arbitrary decision-making.

Provisions: AC does not establish clearly the procedure of organization of the competition for obtaining a broadcasting license and a technical license, the task of describing these in detail being assigned to the Council. The broadcasting license is canceled if the broadcaster violates the AC provisions. Vi-

olation of the broadcasting legislation may be punishable by the Council with an issue of summons to obey the law, with a fine, or with cancellation of the broadcasting license, which are not applied successively. The broadcasting license may be withdrawn for violating the AC. The AC does not establish an exhaustive list of the violations against which the Council may apply sanctions.

Comments: The lack of clear procedures for obtaining a broadcasting license is one of the weakest points of the AC. Licensing procedures must be set forth in the law as accurately as possible, in order to exclude any appearance of arbitrary decision-making. The lack of such provisions could diminish the society’s trust in the Council and would not exclude corruption among its members. Withdrawal of the broadcasting license or the application of other sanctions is left at the Council’s total and free discretion. Thus, the AC does not exclude the withdrawal of the broadcasting license for an insignificant violation of the broadcasting legislation, which is unacceptable in a democratic society.

Provisions: The draft Audiovisual Law does not define in detail the procedure of organization of the competition for obtaining a broadcasting license. The draft law establishes an exhaustive list of the violations against which the Council may apply the following sanctions: warning; fine; suspension of the broadcasting license; reduction of the term of validity for the broadcasting license, and cancellation thereof. These are applied successively, but only after the broadcaster is summoned to obey the law.

Comments: As concerns the lack of clear procedures for obtaining a broadcasting license, see the above comments. The successive application of sanctions could balance the Council’s duties of overseeing the observance of the broadcasting legislation by the broadcasters, but could also impede the Council to make a correct decision. The possibility of imposing a fine without prior summons must be permitted.

Indicators	Audiovisual Code	Alternative draft laws
Procedure of organization of the contest for obtaining a broadcasting license	--	--
Application of sanctions	--	+
Withdrawal of broadcasting license	--	+

The public broadcaster. Editorial independence and ensuring the development of the public broadcaster

The existence of a true public broadcaster is possible only provided that its editorial independence is guaranteed and

facilities for the successful development of the institution are ensured. Editorial independence may be ensured by excluding the possibility of influencing the institution's management from outside and by setting up clear editorial rules within the institution.

Provisions: According to the AC, the Company is managed by the Board of Directors, made up of the President of "Teleradio-Moldova," the Company's Vice President, Radio and TV executive producers, and two finance specialists selected by the Audiovisual Council. The functions of the current Council of Observers are assigned to the Audiovisual Council. The AC provides for the liquidation of local broadcasting institutions.

Comments: The President of "Teleradio-Moldova" is responsible for the formation of program services, whereas the Audiovisual Council may not have sufficient leverage to exercise the duties of a true council of observers. In such circumstances, the Company's journalists will not be able to oppose effectively the possible abuse exerted by the Company's management. The Company's management is not representative, and this might affect the content of the programs. In the case of an underdeveloped audiovisual market, it is impossible to have successful information for the population about local interest issues without having local public broadcasters.

Provisions: According to the draft Law on the Public National Broadcasting Institution "Teleradio-Moldova," the management of "Teleradio-Moldova" is carried out by the Administrative Council, Board of Directors, General Director and Television and Radio Directors. The Administrative Council is made up of fifteen members appointed by Parliament at the proposal of the parliamentary factions (two members), President of the Republic of Moldova (one member),

Government of the Republic of Moldova (one member), Higher Magistrate's Council (one member), the institution's editorial staff (two members), and unions of writers, public associations and select public associations (eight members). The Administrative Council appoints and dismisses the General Director and the Television and Radio Directors and approves the regulation of the institution's organization, functions, and its organizational chart. The draft law proposes that the Company also be funded from special fees. APEL had developed a special law on the local public broadcaster which was submitted to the Parliament for approval, but was rejected in the first reading.

Comments: The draft law proposes a balanced scheme for the management of "Teleradio-Moldova" Company, which also ensures a broad representation of civil society in the Company's management. This might, however, impede the promptness of important decision-making by the Administrative Council, but would ensure a balanced process of such decision-making. Assigning broad powers to the Administrative Council could also constitute an obstacle for any possible abuse exerted by the General Director or by the Television and Radio Directors. The introduction of special fees for funding "Teleradio-Moldova" could contribute to a faster development of the Company. However, these fees should not be of such a nature as to hamper access of the public at large to programs produced by the Company.

Indicators	Audiovisual Code	Alternative draft laws
Management of "Teleradio Moldova"	-	++
Funding of "Teleradio Moldova"	-	0

The national broadcasting: timeliness of the national development strategy

National broadcasting, in its current framework, represents a conclusive expression of the social-political experiences through which the Republic of Moldova has passed in the last two decades.

Previously formed into rigid bodies and ideological activities, broadcasting – especially through the inherited structures – is reluctant to give up its obsolete practices, and its institutional, structural and functional unfettering together with diversification and renovation are, basically, taking place with confusion, incoherence and turbulence. As a result, Moldovan audiovisual may be currently seen more as an eclectic set of radio and television services than as a forceful and comprehensive systemic construction.

The itinerary followed by this field of public communication in the last two decades could be roughly divided into two large segments. The first one was covered in the period 1985-1995, the second one in the past ten years, and each of them can be distinguished by both particular and common features.

The first period of development of audiovisual was marked by the following factors of defining significance: annulment of state's and party's absolute monopoly of radio and television, diversification of broadcasting and of the social actors engaged in the field of broadcasting, incipient application of market principles in the radio and TV sector, transparency of state borders in relation to radio broadcasting and television, and independent management of the public patrimony of frequencies attributed to the Republic of Moldova. The list of these factors can obviously be continued or drawn up differently. Anyhow, the development of Moldovan audiovisual was under the influence of these factors, which, and this must be taken into account, guided the reformation of broadcasting in a biased and contradictory way.

As a result, the impact of factors on the evolution of the audiovisual media was multilateral. Thus, we find, on the one hand, the audacious intra-audiovisual or extra-audiovisual attempts of applying, in the old architectonic system of the audiovisual media, new models of radio and television that are free of the ideological pressure and focus on the public interest (the activity of the National Radio and National Television in the first half of 1990s proved revealing in this regard). On the other hand, we have the tendency to maintain the audiovisual media within the scope of influence of the state authorities.

One of the reasons for this is that new governments coming to power after the fall of the totalitarian regime, regardless of their political stance and seemingly tolerant of the liberalization of broadcasting, have shown their inclination to maintain control over the audiovisual media. This fact has left its mark on the intensity and quality of the structural-institutional diversification of broadcast media.

Thus, we conclude that the access of non-state operators to radio and television in this period was insignificant. The few radio services (Unda Liberă, 1993, Radio Nova, Radio Polidisc, Micul Samaritean, 1994, for example) (see: *Mass Media*, 2000, June) and cable and air television services (Electron, Tiraspol, STV, Slobozia, 1988, TVC, Camenca, Satelit TV, Chişinău, 1989, Eurocablu, Chişinău, 1994, Catalan, Chişinău, 1995 etc.) (see: *Mass Media*, 1999, June), although changing the configuration of the national audiovisual, did not generate, however, an in-depth structural-institutional renovation thereof. Any such renovation, carried out sporadically and episodically, was basically supported exclusively by private or community initiative in the absence of a regulatory legal and conceptual framework.

The second period in the history of evolution of the national audiovisual media unfolded under the Audiovisual Law (1995). By establishing the framework and licensing procedures for air and cable radio and television institutions, by legalizing the public and private institution in the field of reference, and by stipulating the creation of the Audiovisual Coordinating Council (ACC) as the "autonomous public authority" (Art.14) regulating activity, the Audiovisual Law was a catalyst for the process of diversification of the resources and operators in the field. Consequently, a spectacular eruption in broadcasting was attested in this period. Thus, if the ACC issued, in 1997, 28 licenses to TV studios broadcasting through air, MMDS and cable, and 7 to radio stations, including to those previously set up, then in comparison it issued 167 and, respectively, 40 licenses in 2004 (see CCA 2004 Report – www.cca.telemedia.md). Although welcome as an indicator of the structural-institutional dynamism of broadcasting, the remarkable increase points out, at the same time, multiple imperfect practices of application of the specific law, which, finally, placed the constitution of the national audiovisual media in improper and faulty conditions.

This refers, first of all, to the fact that, during this entire time, the development of the national audiovisual media was stimulated, from a legislative, political and economic

viewpoint, by relays of foreign radio and TV programs, to the detriment of local producers of broadcasting services. Thus, for example, at the end of 2001, the latter accounted for only a little more than 9 percent of the total broadcasting offers. A similar situation was attested in the following years as well. "After the coming into force of the Audiovisual Law, the ACC 2004 Report reads, 35 radio and TV stations were created. They were based only on relays. Unfortunately, most of about 100 stations base their activity at present, too, on relays of foreign programs (...). Moldova is the only European country in which the national broadcast media is at the beck and call of other states, which launch their own informational policy".

A number of other discrepancies are attested to as well in the audiovisual media in the second period of its development: between central and local broadcasting media, between the urban and rural ones, between the public and commercial ones, between the ones broadcasting in Romanian and those broadcasting in Russian, etc. The ACC remarked, with full knowledge of the facts, that the audiovisual media has reached at present a state of total stagnation. This state of affairs, we add, has been determined also by the uncertain and ambiguous reformation of the State Company "Teleradio-Moldova" into a public national broadcasting institution.

Hence, the program followed by the Moldovan broadcasting media during the past two decades suggests that the Republic of Moldova, having a certain number of radio and TV stations which were launched onto the local market by virtue of some accidental circumstances or random political, economic or other type of reasons, has not succeeded in building a national audiovisual media that is constituted as a coherent, well-thought out and comprehensive system. This is a timely and current task that remains to be addressed. Its implementation will be conditioned to a great extent by the development of a national strategy that would guide the development of the native broadcasting media and would confer to it a clear and convincing identity.

The national strategy or conception in the field of electronic communication media is not at present expressly the subject of reference of the Audiovisual Law in force, as this is focused on regulating the activities of the specialized operators and on determining the legal, economic and organizational principles of their activity (art. 4). Nonetheless, it contains a number of provisions which could be interpreted as guidelines for such

a strategy. Thus, it stipulates the free expression of ideas and opinions, free communication of information via TV and radio media, the pluralism of opinions, as well as the right to full, truthful and prompt information in the spirit of human rights and freedoms and under the conditions of annulment of censorship. It also lays down the public interest as a basic criterion for the development of this field and the conditions of access to broadcasting by local and foreign operators, of broadcasting and relaying. According to the Law, "the separation criteria and the broadcasting license provisions must ensure a pluralism of opinions, equal treatment of participants, quality and diversified programs, free competition of the national audiovisual creation and production, and independence and impartiality of the programs transmitted by the broadcasting institutions" (Art.15, p.4). The legislative act also contains, even though in a scattered and sometimes confused manner, provisions that could have strengthened the strategy. Hence, the observance of the spirit of the law and of its conceptual references would have obviously had a different impact than the one described above had the ACC strictly complied with the respective legislation. Their diffuse formulation, however, stimulated ACC to be influenced in its decision by other circumstances, not always the most appropriate ones for the constitution of the national audiovisual.

For these reasons, we consider it timely that the new broadcasting legislation univocally stipulates the need for the development of a national strategy for the development of electronic media. It must also establish the drafters and the procedure of approval of the respective strategy as well as the responsibilities entailed by the failure to observe it.



Photo: Info-Prim Neo

Meeting of the Audiovisual Coordinating Council (May 2006)

Ion BUNDUCHI,
Executive Director of APEL

Typology of Moldovan broadcast media

Behind the events

In the Republic of Moldova, the broadcasting regulating authority – Audiovisual Coordinating Council (ACC) - was put in the situation of “catching up” to the events that had occurred in this sector. By 1996, when the ACC members were appointed, many broadcasting institutions, including private ones, had already been operating on the media market.

At the end of 1996 ACC awarded, for the first time and in a somber environment, the initial broadcasting license to the representative of the State Company “Teleradio-Moldova.” Beginning with 1997, ACC started systematically awarding

of alternative, non-state, broadcasting institutions marked the end of the monopoly in this field. Secondly, it meant that all broadcasters, regardless of their ownership, type and format, had entered the competitive zone, which predicted a diversification of the services and programs offered to the beneficiaries and improvement thereof. Thirdly for the first time broadcasting began to be regulated, at least de jure, by legal provisions and not by party-made decisions.

Broadcasting institutions experienced a spectacular increase in number in the succeeding years as well. The ACC 2004 Activity Report (<http://cca.telemedia.md/ro/report1.asp>) points out the following picture of audiovisual development from 1997 to the present:

Year	capital			Bălți municipality			TAU Gagauz-Yeri			Towns and district centers			Rural area			total
	A*	C*	R*	A	C	R	A	C	R	A	C	R	A	C	R	
1997	7	3	7	1	4	-	2	-	-	8	3	-	-	-	-	35
1998	10	9	12	1	6	-	4	2	1	18	13	1	2	-	-	79
1999	11	10	13	1	6	1	5	2	1	19	14	2	2	-	1	88
2000	15	13	16	3	7	1	5	3	1	25	17	3	2	-	1	112
2001	14	13	20	3	7	2	6	3	2	25	24	4	2	1	1	127
2002	13	14	21	3	8	3	6	4	2	28	28	4	2	2	2	140
2003	12	17	21	3	8	4	5	3	2	22	35	6	2	13	3	154
2004	14	14	23	4	6	3	7	5	2	23	42	10	3	49	2	207

A* - TV broadcasting via air; C* - TV broadcasting via cable; R* - Radio stations

broadcasting licenses to the institutions that had been operating since 1993-1994 as well as to the new applicants for radio and TV frequencies in accordance with the Audiovisual Law. By this time, many radio stations (Radio Unda Liberă, Radio Polidisc, Radio Micul Samaritean, Radio Nova) and TV stations (Blue Star, Astra, Rubin-94, Flor-TV, Studio-L, etc.) had made themselves known on the Moldovan media market. Thus, by the middle of 1998, the ACC Registry of Broadcasting License Holders included 53 private TV stations (including 15 in the capital) and 13 radio stations (including 10 in Chișinău) (Cf.: “Mass media in the Republic of Moldova”, 1998, September, p.21), so that the number of such holders had reached 76 by the end of the year. This fact deserves attention due to its significance. First of all, the appearance

We will not focus on everything given in the quantitative indices. We will only explore a few items. Out of the 207 broadcasting license holders, more than half (114) are cable TV operators, of which almost fifty percent are in rural areas. Cable television requires a relatively small expenditure, ensuring guaranteed income (at least from subscription fees). Hence, this type of television was to be more developed. The fact that this tendency has been observed only in the past two to three years may indicate that certain mechanisms of an economic market were delayed. However, reaching a normal situation takes time (supply equal to the demand) if we relate the number of cable TV operators (49) to the number of rural localities (several thousand). The number of cable TV stations will

probably continue to increase, taking also into consideration that no frequencies are required for this purpose. As for the rest, the picture denotes an asymmetrical, non-uniform and chaotic development of broadcasting institutions in the country. If, for instance, we take into account the number of radio stations concentrated in the capital (which is higher than that of the stations in the rest of the country) and the limited power of the transmitters, we conclude that entire geographical zones benefit, for now, from the only such source of information with national coverage – Radio Moldova.

From USW to FM

Moldovan radio, as a component part of the former Soviet radio, broadcast for many years on long, medium and short waves. For convenience, as well as for better control of broadcasting, radio was being directed to listeners through wire. In the last decades of existence of the USSR, Soviet radio began to explore the range of ultra-short waves (USW, Eastern standard). The radios that were manufactured were obviously able to capture programs of this wave range. The new realities and a broader opening to the rest of the world also meant the penetration onto the market of foreign manufactured equipment, including radio receivers able to capture both USW and FM waves, the latter being of Western standards. The West had been exploring this range for a long time. Consequently, the natural reaction of the heads of the electromagnetic frequency spectrum had included the parallel exploration of these two wave ranges, which are also called FM-1 and FM-2. Alternative radios began to broadcast in these two ranges. This determined Radio Moldova also to explore FM-2 frequencies. The first such transmitter started to operate on 30 October 1995 in the Strășeni region, to be shortly followed by two others – in Rezina and Cimișlia regions. At present, Radio Moldova uses 15 FM-2 frequencies.

The accelerated exploration of FM frequencies by Radio Moldova was also influenced by another factor. The 1992 armed conflict on both sides of the Nistru River “left” to radio an inheritance of a total capacity of 185 kilowatts, depriving it of the ability to use the 9 transmitters located on the left side of the Nistru, near the town of Grigoriopol, with a total capacity of ... 2000 kilowatts (Cf.: “Mass media in the Republic of Moldova”, 2000, June, p.24). The situation of the State Company “Teleradio-Moldova” continued to deteriorate. The destruction of wire broadcasting before it could be substituted by air broadcasting (according to the Government Decree no. 838 of 21 November 1994), the change of the Company’s management (as a consequence of political fighting in the Parliament, which, after amending the Audiovisual Law, could replace the management on its own initiative), the austere budget (less than half of what was

needed) – all these resulted in a reduction of TV broadcasting space to a few hours a day, in radio giving up to its 2nd program “Luceafărul” and its night transmission, and in broadcasting programs for foreign countries (Radio Moldova International) via Internet. The situation continues to remain uncertain at present, in which the State Company “Teleradio-Moldova” has the status of Public National Broadcasting Institution (PNBI). The Audiovisual Coordinating Council (ACC), stated by law as the only public autonomous regulatory authority in the field, has not interfered firmly enough in redressing the situation as the Company’s destiny is, in fact, predetermined by political factors – a typical phenomenon, characteristic of post-communist societies in the period of transition.

Difficulty of classification

It is quite difficult to try to classify the existing broadcasting institutions. Soviet broadcasting functioned in isolation from the rest of the world, and this meant a single type and a single format. This is why the broadcasting institutions started, to a large extent, to act at random, by trial and error, without initially announcing (this was not and is not officially requested) the type or format of the station. The practice was to show where they were heading and in what harbor they would cast their anchor.

Why is it necessary to have an accurate classification of the types of broadcasting institutions and what practical importance does this have? First, by knowing what exists on the media market, we become aware of what else is needed and can encourage the eventual frequency applicants to cover the respective needs. In other words, at the stage of holding the competition for obtaining frequencies, and having information about the applicant’s specific intention, we can determine what the chances of success are. If a broadcasting institution of a certain type already exists in a given geographical region, and the applicant sets out to open a similar station, how well thought out and logical would it be to accept such a proposal?! This is the case of Chișinău, when ACC agreed to open broadcasting institutions of the same type, and so, while an increasing number have meanwhile appeared, most of them offer the same or almost the same media product. In our opinion, the only justification can be the fact that market competition appears among stations of a similar type, which, hypothetically, may lead to an increase in the product quality. But it would have been wiser to facilitate first the appearance of a diversity of types of broadcasting institutions and then afford the luxury of having many institutions of the same type.

The easiest, it would seem, is to classify the broadcasting institutions by their form of ownership. In such case, we show institutions of different kinds: state (the State Company “Teleradio-Gagauz Yeri,” for example, and, possibly, those over 20 wire radio stations in schools and lyceums, although the

current legislation misses them because they are out of sight; public (PNBI “Teleradio-Moldova,” Radio “Antena C,” Euro TV Chişinău, “Teleradio-Bălţi” Company); private (commercial) – most of them; private (non-commercial) – Radio “Micul Samaritean.” In reality, the situation is much more entangled and not just because of the total lack of transparency in the funding of most broadcasting institutions.

Although the Audiovisual Law classifies the institutions into public and private, the public ones are missing. The reason is that they do not have the characteristic marks of a public institution: funding from public money, in the service of the public, and public control.

All the attempts from the last few years to adopt a law on local public broadcasting as well as those attempts to set up a public service of national radio and television have failed. PNBI “Teleradio-Moldova,” according to many expert opinions, is only *de jure* public. It is insufficiently funded. The timid attempt to set up, be it even short term, a public control instrument by having the PNBI programs monitored by civil society representatives ended up with a summons being served on the “controller.” It does not matter that the monitored party lost the lawsuit. What matters is the view of the public institution’s management about public control.

When trying to classify the broadcasting institutions by type, we establish the following: the informative ones, in their classical form (music plays only the role of “garnishing” the programs or of separating them one from another), are missing. They are also missing in Russia, wherefrom we “import” and massively adopt models. On the other hand, this type enjoys an increasing popularity in other parts of the world, for instance, in the USA. The informative-musical type of stations (60-70% information and 30-40% music within a broadcasting day) is present on the media market. This would be in fact the stations which pursue major social-political purposes: PNBI “Teleradio-Moldova,” “Teleradio-Bălţi,” “Teleradio Gagauz Yeri,” Radio “Antena C,” Euro TV Chişinău, and Radio “Vocea Basarabiei.” Radio “Sănătatea” also follows this format.

The broadcasting media market is dominated in number by musical-informative institutions (60-70% music and 30-40% information on a broadcasting day) and musical institutions (the music covers about 90% of a broadcasting day). These institutions follow major commercial and entertainment objectives.

Obviously, the classification of broadcasting institutions is rather conventional. A specific feature of the development of this media segment in Moldova would be the subsequent, almost immediate, and complete transformation of the intentions initially announced by a majority of the stations. Radio Polidisc, for example, was to appear as a station specialized in information on police activity. This was a praiseworthy intention with high chances of success because the increased interest of the audience in such type of information is well-known. But this intention

was not realized for objective and subjective reasons. Among the objective reasons, we would point out the economic ones. With few exceptions, they affect the entire system of the national mass media. In the end, Polidisc frequencies were made available to a foreign station – Russkoye Radio. What followed was a chain reaction, which massively eroded the security of the national informational space.

Other examples of specialized stations are: Radio “Micul Samaritean,” the first private, non-commercial radio with a broad network, focusing on religious music and information, as well as the first station representing the local adoption of a model from outside the country; Radio “Sănătatea,” focusing on medical information, which came out in 1999 in Edineţ and extended up to Chişinău in 2005; Info-Radio, which promised to be the sensation of 2001, with the largest amount of broadcast news, but which failed for economic reasons, after which it relayed for some time the Russian station “Eho Moskvu;” MuzTV Chişinău, an “imported” channel from Russia, which has also been broadcasting local programs for two years; Radio “Noroc,” the sensation of 2005, focusing on national music (an alternative to Russkoye Radio?), with several frequencies and a “free” niche from the very beginning; Radio “d’Or,” which changed its initial format in a very short period, providing space mainly to jazz music, and which had to find space for another, Russian, radio specialized in information for car drivers, “Avtoradio.” It should be mentioned that Radio Nova, Radio “Vocea Basarabiei,” Radio “Contact” (which was replaced in 2005 by Radio Kiss-FM), and Radio ProFM set out to broadcast programs only in Romanian, except for advertising. The rest of the stations produce programs in Romanian-Russian with the exceptions of Radio “Albena” (Taraclia) and Radio BasFM (Basarabasca) that broadcast in Bulgarian.

Most stations, to a larger or smaller degree, broadcast local-national-international news as well as certain programs of community or general interest, but the lion’s share of air time is taken up by cognitive-entertaining, entertaining and musical programs. Most national broadcasters operate in an unstable atmosphere. The economic considerations, first of all, cause the stations (until the situation is redressed) to reduce (the already reduced) staff and, respectively, the number of programs. But considerations of other kinds, including political ones, also interfere. This is the case of Catalan TV (which has totally disappeared), Radio “Vocea Basarabiei,” Radio “Antena C,” Euro TV Chişinău, and Radio Sângera (Nota Bene! All of them are national institutions with their own broadcasting schedule), whose broadcasts were temporarily suspended at different times for various invented reasons. Just one argument: Antena C and Euro TV were obliged to suspend their broadcasting until obtaining the status of legal entities, the ambiguous provisions of the Audiovisual Law being invoked. Moreover, the ACC made a public statement

that all broadcasting institutions without such status would have to go through a similar procedure. It should be mentioned that, after 70 days (the time it took to prepare the documents and the length of time the journalists' protests lasted, which went as far as a hunger strike), the municipal radio and TV stations resumed their airing and the ACC ended its activity of "bringing in accordance with the legislation in force" the actions of broadcasting institutions without a legal entity status. The real pretext for applying sanctions against the broadcasters was a different one. The authorities are not bothered when the citizen is informed about the events taking place "in Habarovsk", but are concerned when he is informed, objectively or less objectively, about the local realities, for which they bear or should bear responsibility. This is how the

massive invasion of foreign stations, mainly of Russian ones, into the Moldovan informational space, is explained. The invasion cannot be justified by anything, but it continues. We have not yet reached the situation in which, for example, the number of radio frequencies granted to the national operators exceeds the number of frequencies granted to "the foreigners".

The first ACC make-up started off on the wrong foot in managing the field. The second make-up stated that it had to put right what the first one had "wronged" - and then it continued in almost the same spirit as the first one!

The media landscape of local broadcasting will remain gloomy and noxious for as long as each ACC make-up continues the harmful practice of "putting right" the situation created by the previous one, instead of developing the field.



Photo: Steven Knowlton

Monthly meeting of the Moldovan Press Club (July 2006)

Arcadie GHERASIM

Broadcasting: economic conditions

The economic conditions in which national broadcasting takes shape are tempting, unpredictable, and at times unfavorable.

The temptation (of easy profit) determines many broadcasters to give up their initial plans of setting up a radio or TV station with a broadcasting schedule based on its own programs and to “specialize” on foreign programs, which would bring profit from advertising.

When some risk giving up this parasitic dependence on foreign stations and produce their own programs, they find that the advertising market is not as generous and equitable as they had thought.

The unfavorable conditions are recognized, especially when the small broadcasters, with small coverage and modest technical possibilities, face those who have been favored by ACC with national coverage and that relay for the most part (or even exclusively) highly rated TV stations, which are watched by the local TV viewer out of habit, tradition and due to the good quality of the programs.

Which, then, are, the circumstances that generate such a state of affairs in national broadcasting?

Here are just a few:

1. The discriminatory policy promoted by ACC from the beginning of its activity favored the acquisition of air frequencies mainly by those applicants that set out to relay foreign programs - in most cases, Russian. These applicants have taken the best frequencies and have permeated the Republic of Moldova with radio and TV stations that relay highly rated foreign programs, which have aroused the listeners and viewers interest as well as of the advertisers. Thus, without being obliged to incur expenses related to the acquisition of equipment and production of their own programs, these broadcasters have monopolized the advertising market to the disadvantage of some of their colleagues, who set to create radio and TV stations based exclusively on programs of their own production. Even the Public Company “Teleradio-Moldova” is surpassed, with regard to income from advertising, by “Pervyi kanal v Moldove,” which, besides the “weather forecast,” has not produced any program of its own lately.
2. For years, an unstated interrelationship of interests and sympathy based on ethnic feelings has occurred in the

area of advertising language, and as a result the Russian language broadcasters are given an advantage.

3. The Moldovan advertising market is weak because local producers do not invest sufficiently in this area. Foreign producers do not want to spend additional resources when they have the advantage of placing advertising on the Russian or Romanian stations, which are then relayed by Moldovan broadcasters through the network distributed by ACC. The modest local advertising market is controlled by advertising agents and agencies which usually promote a dumping policy and use the broadcaster rating based on estimates made by agencies that make public only the results for which money is paid.
4. The activity of cable broadcasters is practically unregulated; they broadcast considerable amounts of local and foreign advertising, being parasites on the relayed channels and obtaining fabulous incomes as a result of this activity. Some cable networks even have their own advertising services, which, due to the advantage of a vast channel package, also practice dumping. In such a situation, the local radio and television stations broadcasting through airwaves are simply eliminated from the advertising competition.
5. The local radio stations cannot develop due to the high cost of equipment and, most of the time, depend either on grants offered by the Soros Foundation or by other non-governmental structures. If the broadcasters that are fully or partially funded by the local public administration still have a chance of development based on their own or the national production, the private broadcasters are looking for foreign channels which they could relay. Even the TV Station “NIT,” which is private and relatively well provided for financially, acts as a parasite on the digestion of the relayed foreign channels and does not risk to abandon this favorable support.
6. The reduced political culture of the decision-making factors from Moldovan society also has a regrettable impact on the audiovisual-economic environment relation. These appear in various types of pressures on economic agents by imposing informal restrictions of placing advertising on certain radio and TV stations. In this way, the state authorities, regardless of their color, undermine economically the broadcasters that are independent from an editorial point of view. This form of blackmailing makes advertisers reticent about any offer of cooperation. It becomes bizarre: advertising agents suggest that broadcasters be more malleable in relation to the state authorities.

These are just a few subjective deductions, but which in my opinion show the hidden part of the iceberg, and the following measures should be undertaken in order to redress the state of affairs:

1. In order to reduce to a minimum the danger of degradation of national and, especially, of local broadcasting, it is necessary to have it stipulated in the law that, during two years, all broadcasters should increase the amount of their own programs up to 80% of the entire aired volume.
2. To forbid broadcasters relaying radio and TV stations and cable network operators from placing advertising in broadcasting segments other than those covered by their own production.
3. To make an amendment to the Law on advertising that would provide for the obligation to broadcast advertising in the state's official language.
4. To establish by law incentives for the economic agents that will wish to sponsor the programs of national and, especially, local broadcasters.
5. To establish by law mechanisms of control over the activity of advertising agents in order to exclude dumping. As grounds for such a control could serve the comparison of the tariffs established at the agency level with the prices at which the advertising is negotiated.
6. To establish by law mechanisms of preventing hidden advertising and TV shopping. Fines could be stipulated to discourage such violation.
7. To oblige by law the broadcasters relaying foreign channels to cover with neutral programs the segments of advertising broadcast by those channels.
8. To allow by law foreign investors to hold control blocks in the broadcasters' statutory capital.
9. Upon issuance of broadcasting licenses, AC will give priority to the broadcasters that present plausible evidence of broadcasting, or intention to broadcast, more than 80% of the programs in the state language.
10. To stimulate by law the broadcasters transmitting educational programs of national importance. In the USA, the expenditures related to the broadcasting volume reserved for such programs are covered by government contributions.
11. To provide incentives on import to the public and private broadcasters that purchase equipment for their own radio and TV stations.
12. To include the specific audiovisual specialties in the nomenclature stipulated by the legislation on salaries.
13. To oblige by law the cable network operators to relay the programs of local and national broadcasters.
14. To stimulate, by means of budgetary policy mechanisms, the local administrations to support financially the local broadcasters that serve the community interests.
15. To exempt by law the local broadcasters from taxes on the share of profit invested in technical investment.

I believe that, after holding public debates on this subject, there could be identified other actions meant to contribute to the development of the national audiovisual media. It is certain, however, that only by applying efficient mechanisms of encouraging the local broadcasters that produce their own programs will the consequences of a discriminatory state of affairs for the strengthening of the national audiovisual be liquidated.



Photo: IJC

Study visit of Moldovan journalists to Bosnia & Herzegovina. Under the auspices of the Peacebuilding Framework Project administered by the Department for International Development (DFID) Section at the British Embassy in Chişinău. (June 2006)

Constantin PÂRȚAC

Broadcasting: technological challenges

Moldovan broadcasters have made the mistake of orienting towards relays, on the one hand, and the distorted market economic relations (in which monopolists rather than supply and demand and free competition determine the development vector in various areas and the prices) on the other hand. This has led to a relatively reduced level of technical-material equipment of the broadcasting institutions.

Let us consider an ordinary component: except for the public institution, not a single broadcaster in Moldova has premises designed and built especially for this purpose. All of them are located in adapted and converted buildings. Therefore, the studios are cramped and inconvenient and the height of pavilions does not allow arrangements for public presence. Activity being carried out on several film sets, programming and use of lighting effects become a dream. It is a luxury for most Moldovan TV studios to have a guest room, make-up rooms, and decoration warehouses. An exception to this would have been "Stil-TV" station, for which a special studio was being built, which was going to have a national network of its own transmitters and distribute its signal also via satellite. However, in November 2001, the ACC withdrew their license for no reason whatsoever.

This example shows that the Moldovan authorities are not interested in developing national radio and TV stations that are strong and well-equipped.

Nor, in recent years, has the public institution developed its technical and technological base. If the Moldovan representative was to win tomorrow the first prize in the "Eurovision" contest, the public television would not be able to film the event using its own means because it does not have an advanced reportage carriage, nor the necessary number of cameras (over 30), nor modern lighting and sound recording equipment.

If in 1990 the Moldovan Television had four reportage carriages, only one is operational today, which can use from four to seven cameras.

Or another example:

Since 1994, the Moldovan football team has been participating in the preliminary games of world and European football cups. Each time, in order to film a football game here, foreign television stations come with their equipment or rent reportage carriages from Romania. The luck of the public in-

stitution is that a land station of broadcasting via satellite, in the amount of USD 1 million, was built during 1993-1994, through a loan provided by EBRD and guaranteed by EBU, which constitutes one of the most important investments in TV technology.

It is necessary to note that this is in the territory controlled by Chisinau authorities (there is a so-called state television in Tiraspol, constructed with funds allocated to the separatists by Russia). In Chișinău, only TVM has a reportage carriage with a relay and thus can broadcast live. Televisions wishing to record a show or broadcast an event have to cooperate with various companies and appeal "to desks made by local masters." Even this is accessible only by the best equipped studios. While most of the broadcasters abroad transmit their signal via satellite, in Moldova, not even the public station broadcasts its programs via satellite. The only exception is "DIXI-Media", which broadcasts TV and radio programs (relays "HIT-FM") by renting in a satellite segment. For this reason, programs produced in Moldova are not received outside the country, where we have a growing Diaspora. There are shadowed zones inside the country, too, where the signal is not captured.

Let us come with another argument. The reports on the official visits of Moldovan authorities abroad or even within the country are prepared and broadcast only upon the return of the delegation, or, for promptness, telephone communication is often used. All subjects and comments of news bulletins are projected from the studio, like 20-30 years ago, because not a single TV station has equipment for live reports, the so-called mini-kits. There is no doubt that the TV viewer notes an important detail: about one-half of the volume of news bulletins of foreign stations is covered by live reports, which are more credible.

The fact that many are not aware of the role of technical equipment in the workings of a TV station is proved by a case which took place in 1998. A TV director from Strășeni came to the ACC to receive a broadcasting license. When asked about the technical equipment he had to launch his TV station, he answered: "There is a man in the town that films weddings and has a camera and a VHS recorder. I also have a video recorder and I think this is enough...". I want to underline, through this example, that some of the blame for the lack of equipment in new stations must be borne by the field regulatory authorities, which have not established the minimum framework and

necessary technological standards that must be ensured by the applicant in order to obtain a technical license and broadcasting authorization.

It should be emphasized that those who intended to obtain a license were not starting with the selection or training of specialists in the field. In the beginning, directors and specialists of TV stations were coming from the ranks of cinema mechanics or specialists from TV repair shops. This is why priority in this field has been given to relays. Those referred to here did not know how to produce their own programs.

It is shown that when professionals founded a radio/TV station using technical advisers, the station had a totally different look, it had a normal technological flow and the devices were compatible. This has been confirmed by "Antena C," "NIT," "EuroTV Chişinău," "Tele 7," "DTV," etc.

We will establish, with few exceptions, that radio stations having more advanced technical equipment allows them to produce and broadcast more effective and complex programs, based on a dialogue with the public.

Better equipment of radio stations is first of all due to the reduced costs as related to TV technologies, but also to the efforts made by specialty public associations (IJC and APEL), which have developed many guides for radio stations.

We will argue for this thesis with information about the technical equipment of some local radio/TV stations. The data were collected in the summer of 2005:

Bas-TV/ Basarabasca

Staff - 12, including three journalists, one engineer and one cameraman. The technical director's function is missing. It has its own transmitter. Own broadcast programs: Monday – Saturday, 30 min; Sunday – 1 hour.

Studio - 70m², filming and mounting equipment – S/VHS. Lighting equipment – unprofessional.

It is considered a developing station, as it also has a cable TV network, which ensures certain financial collections.



*Training of staff for the Chisinau School of Advanced Journalism.
Study visit of Moldovan journalists and teaching staff to the Missouri Journalism School, USA (December 2005)*

Bas-FM/ Basarabeasca

Staff - one journalist and one presenter. No news service. Own transmitter, all production base – one computer. Has space for a studio, but lacks the necessary equipment. Microphones – professional.

No professional radio programming equipment.

Media-TV/ Cimişlia

Staff - ten, including three journalists, one video engineer, one mounter, one cameraman. No news service. Own transmitter – 200W. Production format – VHS and S/VHS. The station has four VHS cameras and two S/VHS cameras. Three hours of daily broadcasting plus relay of the Romanian station “Național, an old, linear mounting room, studio - 40m², lighting equipment – unprofessional. The station's technical equipment thus does not correspond in any respect to the current TV production requirements and needs full re-equipment.

Radio-Media/ Cimişlia

Staff - two. Very reduced technical equipment – one computer for production and broadcasting. There is space for a studio, but it is not arranged and equipped as required. Microphone acquired, in the specialist's opinion, by an unprofessional (without circular diaphragm). Lacks equipment for adapting the sound. The station does not have a permanent broadcasting schedule. No regular news. The staff is unqualified and thus unable to produce own programs.

Canal-V/ Briceni TV station

Staff - five, including two journalists and two cameramen. Own transmitter - 100W, two-three broadcasting hours daily.

Production format - MiniDV, VHS and S/VHS (all kinds). Video cameras – 1 MiniDV camera and 1 S/VHS camera. Studio - 40m². Lighting equipment – unprofessional. No mixer. Two mounting rooms – 1 linear, 1 non-linear. Does not produce news. The station is considered prospective as it produces about 9 of its own programs.

**Radio „Sănătate” / Edineț**

Staff – seven permanent, 24 holding more than one job, including four journalists, 1 technical engineer, 1 audio producer, three DJs. Own transmitter – 2 kW, 24 hours of own broadcasting. Has five computers for production and broadcasting, has a studio and an equipment room. Equipped with the necessary audio equipment. Lacks professional technicians and modern programming equipment. For the rest – satisfactory situation.

AVM / TV Edineț

Staff – 12, including six journalists, four technicians, two cameramen. Own transmitter – 100W. Relays NTV Russia. Own broadcasting – 0.5–1 hour, from Thursday to Sunday, usually musical dedications and congratulations.

Production format – VHS. Has three VHS cameras, a linear mounting station, a studio with the area of 50m². Lighting equipment – unprofessional. Lacks audio equipment. Programs are recorded and taken to the transmitter on video tapes.

News – two hours per week, Tuesday – in Russian, Thursday – in Romanian. Weak technical base, no professionals. Is not included in the local cable networks.

Antena „C”/ Chişinău Radio

Staff – 40 permanent and 20 part-time, including 31 journalists (16 reporters), five technicians, five presenters. Unlike other studios, has a broadcast programming team, one technical director, advertising division. Own transmitter – Străşeni 3kW, rented in Bălţi and Căuşeni- 4kW each. Own production – 24 hours. Production format – digital technology, two studios, including for broadcasting and for debates, professional audio equipment, 15 computers to mount and prepare the materials.

Is properly equipped. Needs a modern radio programming station, a more advanced sound processor and a microphone for debates in the studio involving more people.

**TV6/ Bălţi**

Staff – ten, including three journalists, two mounters. Own transmitter – 100W. Own programs – 45-50 minutes daily. Relays “TBI” Russia. Production format – VHS. Has three VHS cameras and one DV camera, which is not used, two non-linear mounting stations, studio – 40m², the lighting equipment is unprofessional.

Image quality - unprofessional. The studio does not have its own car for filming (uses public transportation), the cameraman does not use a tripod, which reduces the quality of filming.

103.5FM/Bălţi

Staff - seven, including two journalists, two-three part-time DJs. Own programs – six hours daily. Production format – three computers for production and broadcasting. Studio – a room not constructed according to the standards, non-linear mounting station (computer made). Own transmitter – 1000W.

Euro-TV/Chişinău

Staff – 59, including 30 journalists, four video engineers, six mounters, seven cameramen. The station has a technical director, a news service and an advertising-marketing service. Rented transmitter – 1kW. Own programs – Monday through Friday, 5 p.m. – 12 a.m., Saturday–Sunday – 12 p.m. – 12 a.m.



Production format - MiniDV and DVCam. Has three MiniDV cameras and three rented DVCam cameras, five mounting stations, studio - 60m², lighting equipment – unprofessional, can ensure live broadcasting from the studio. Although it still has some problems, it is considered to have technical means and staff for TV production that is adequate for the present time.

TV Elita/Rezina

Staff – 12, including six journalists (two of them holding more than one job), one video engineer, one cameraman. Own transmitter – 150W. Own programs – three hours daily. TV production format – MiniDV and DVCam. Has two DVCam and two VHS cameras. Mounting studio – one linear and one digital. The studio has an area of 60m², professional lighting equipment, audio equipment, a mixer, and can broadcast live from the studio. It is short-staffed, but able to produce TV programs.

Albasat-TV/ Nisporeni

Staff – ten, including two journalists, one mounter, two cameramen. Own transmitters – Nisporeni, Ungheni, Glodeni, Chişinău. Daily own broadcasting of 90 min. Production format – DV-Pro. Cameras: one DV-Pro, one JVS-DV-500. Studio – 40m², three mounting stations, including two non-linear, professional lighting equipment, able to broadcast live.

CTV-41/Taraclia

Staff – eight, including two journalists, 1 mounter, 1 cameraman, does not have an advertising division, but 18

agents collect offers for the studio. Own transmitters – Taraclia, Korten, Ciurari. Own programs – 1.5 hours daily. Production format – MiniDV; VHS. Video cameras – 1-VHS, 2 MiniDV, 2 mounting stations, including 1 linear and 1 – non-linear, studio – 40m², lighting equipment – unprofessional.

SOR-TV/ Soroca

Staff – nine, including five journalists, two mounters, two cameramen. Own transmitters – 200W. Daily broadcasting, from 7 a.m. to 10.30 a.m., and from 6 p.m. to 12 a.m. Production format – MiniDV. Has two MiniDV cameras, two mounting stations, one studio of 15m². Unprofessional lighting equipment. Does not have a video play recorder and the picture image is sent for mounting directly from the cameras.

The main problem faced by the local TV stations, as can be seen from the above, is the lack of qualified staff and the inadequate technical equipment. The stations lack the necessary staff and so workers must combine several types of activity. In almost every case the cameramen are also mounters and responsible for the broadcasting; the journalists are also reporters, and presenters and program authors, and, in many cases, also hold the position of director. It is known that specialization is necessary in television, or the quality of the finished product will suffer. Due to the lack of staff as well as of the necessary equipment, many stations have reduced the schedule of their own programs to the minimum, as compared to the contents of their broadcasting license. Some stations limit themselves to such programs as “Congratulations” and “Announcements,” which they consider “news.” The stations “Euro-TV,” “Antena-C,” and more recently “DTV” are pleasant exceptions, but they also need support to strengthen their authority in the public eye. None of the local TV stations outside Chisinau have technical equipment to produce entertaining programs or live broadcasts, and this is why the ordinary citizen and the people’s voice is missing from the air. In shootings, cameramen usually do not use tripods, additional lighting or radio microphones.

RECOMMENDATIONS:

1. The Government will have to supplement substantially the allocations for the technical equipment of the public institution, so that it is able to purchase a new reportage carriage, mini-kits and radio relays and broadcast also via satellite.
2. The Government will have to create a favorable regime for the import of production and broadcasting equipment and new technologies, which would make it possible to support many projects in the field that require enormous investments.
3. In Moldova’s conditions, with a limited advertising market, it is necessary that the state find a way to support private Romanian language stations (in the first three years of activity), so that the national audiovisual production increases and is able to stand up to the competition of stations from abroad.
4. The ACC, together with the National Agency for Regulation in Telecommunications, must establish certain technical standards and a minimum production capacity (cameras, mounting stations, studios etc.) for the stations wishing to obtain a technical license, so that the VHS/S-VHS format disappears from production and broadcasting.

Raisa LOZINSCHI

Press distribution system in the Republic of Moldova

The current system of press distribution in the Republic of Moldova numbers just one press distributor at the national level and several limited liability companies (LLCs) which have only the capital city as their distribution area. The monopoly in the field is held by the State Enterprise “Poșta Moldovei”, which, for lack of competition, independently establishes tariffs that press editors are forced to accept. In the other camp, the LLCs must “fight” to gain ground, and this is felt in the final price of the subscription that the newspaper consumer pays. But let us take things in turns.

I. State Enterprise “Poșta Moldovei”

Subscription

Each editorial office establishes a certain price for a subscription to the newspaper it publishes. “Poșta Moldovei” adds one more price to the one established by the editorial office, according to the scheme below:

Number of pages	A2 format	1-4	5-6	7-8	9-10	11 and more
	A3 format	1-8	9-12	13-16	17-20	21...
	A4 format	1-16	17-24	25-32	33-40	41...
Distribution fee	Lei	0-40	0-65	0-85	1-10	1-30
Including VAT		0-48	0-78	1-02	1-32	1-56

Even if the final price of the subscriptions determined by “Poșta Moldovei” is higher than the one registered by its competitors, the services provided by “Poșta Moldovei” employees could be better. In the best case, the subscribers receive the newspaper in the evening of the same day it is printed. However, in other cases, the subscriber may receive it a few days after its publication. This bothers newspaper editors; however, for lack of an alternative, they have to accept “the rules” of the state monopolist.

Transportation

For transportation of the newspapers throughout the country, newspaper publishers pay the tariffs established by “Poșta Moldovei” without negotiation. At present, an editorial office must pay 25 Lei for the transportation of an eight-kilogram package, which characterizes about 400 newspaper copies of eight pages in an A3 format, plus an additional fee of 3.5 bani for each “processed”, i.e. distributed, copy. Thus, an editorial office must pay a total fee of 39 Lei for such a package. If, for instance, a newspaper has a print-run of 20,000 copies, A3 format, of eight pages each, the owner must pay 1,950 Lei for their transportation. And this for just one issue! This sum is not modest at all for the newspapers which try to survive on their own, especially when you add to these expenses those related to unsold copies that are returned to the newspaper’s premises.

The tariff of 3.5 bani, which is paid to the Mail Processing and Transportation Center, a branch of “Poșta Moldovei”, was introduced at the beginning of the year (2006), and this displeased some newspaper owners because, again, it had not been negotiated. According to the Executive Director of the Association of Independent Press (API), Petru Macovei, API and “Poșta Moldovei” representatives have recently set up a work group that will try to set the basis of a cooperation agreement at the national level between the publishers, on one side, and the distributors, on the other side, to negotiate any tariff. Such agreements exist in other countries as well.

Sales

“Poșta Moldovei” has the highest number of news-selling booths in the entire country. If it has some competitors in Chisinau, then in the provinces, “Poșta Moldovei” is a total monopoly. And where there is no competition, things do not go so well. The news booths have been closed in the largest rural places, and in district centers, not more than four to five booths, where people can find press, function. Even so, due to the fact that “Poșta Moldovei” puts out for sale very few newspaper copies, many people call up the editorial offices expressing their dissatisfaction with the lack of newspapers at the news booths. As a matter of fact, “Poșta Moldovei” has established the highest additional charge in the sale of newspapers compared to other press distributors – 36 percent.

II. “Moldpresa” S.A.

By the number of subscribed and sold copies, “Poșta Moldovei” is followed by “Moldpresa” SA. Their number is obviously much smaller because “Moldpresa” subscribes and sells newspaper only within the municipality of Chișinău. “Moldpresa” adds from 45 to 55 bani to the subscription price established by the editorial office, depending on the number of pages. That is, if an editorial office establishes, for instance, a price of 6.00 Lei for a monthly subscription to a newspaper of 16, A3 formatted pages with one issue per week, the subscriber will pay 6.50 Lei. The difference of 50 bani is taken by “Moldpresa” for the cost of transportation to the respective subscriber. The commercial charge collected by “Moldpresa” from the sale of newspapers in its own booths is 30 percent.

III. “Omniapresa” SRL

The above two press distributors are followed by “Omniapresa” SRL. People subscribing to a newspaper through “Omniapresa” pay 40 bani more than the price established by the editorial office, which “Omniapresa” collects to cover its transportation expenses to the subscriber. The commercial charge of “Omniapresa” in its booths is 33 percent.

IV. Other distributors

The Moldovan press distribution system includes a few other companies, which only fill subscriptions within the

capital city. These are “Ediții periodice” SRL, “Business-Elita” SRL, “Pro Interpress” SRL, “Pressinform-Curier” SRL, “Deleu-Delev” I.I. and “Vector V-N” SRL. But the number of newspapers that pass through the hands of these companies is not so significant. Another category of distributors, if they may be called so, is represented by several companies that order newspapers to sell from their own newsstands, installed in various commercial centers in Chisinau. One of these is “Inttal”, but, again, we are talking about several hundred copies per month at most.

Weakly developed system

We can easily assert, without exaggeration, that the press distribution system in Moldova is a weakly developed one. This fact, together with the people's poverty and the newspapers' quality, contribute to the registration of small print-runs of the local publications. In Romania, for example, there also exists just one press distributor with national coverage – “Rodipet”, but the difference is that this one is private and holds neither more nor less than 30 percent of the market share in the field of press distribution in Romania. Then, there are many regional distributors – two or three fairly significant ones that work in five or six counties. These, in their turn, work with smaller companies when they cannot reach the market directly. This press distribution system allows a Romanian newspaper owner to get information about the situation of sales in a maximum of two weeks. In the Republic of Moldova, however, this may take more than a month.



Photo: IJC

*Seminar “Management of periodical publications,”
held by Cosmin Gabriel Păcuraru, Economic Program Producer at Radio MIX Bucharest,
and by Rodica Delev, Sales Director of the weekly “Spros i predlojenie” (“SP”) from Bălți (June 2006)*

Petru MACOVEI,
Executive Director of API

“Arguments” for newspaper managers

It is known that the editorial independence of a newspaper is conditioned equally by political and economic factors. Only when economic stability and efficient management exist can a periodical publication resist the political and administrative pressures exerted by the structures interested in manipulating public opinion.

Under current conditions in the Republic of Moldova, very few editorial offices have managed to organize their activity in such a way as to ensure enough financial resources for themselves and not to depend on external funding, be it from the public budget or from the political parties, interested economic groups, or from internal and external donors. Regardless of the discouraging character of Moldovan legislation with regard to the publication of newspapers as a business, we must recognize that, unfortunately, the Moldovan press lacks qualified managers who are able to “set into motion” such a business. We often have newspaper directors (that is, managers) who are journalists by calling, or very good poets, or talented fiction writers, but who do not know and do not understand the way the market operates. They do not see the sense of business plans, do not recognize the results of market research (especially if the results disfavor them), and they persist in maintaining out-of-date design and boring editorial content (“we know better what kind of newspaper the readers need!”).

In an attempt to change at least a little the status quo, which hinders the development of newspapers as a business, the Association of Independent Press (API) (with the financial support of the Dutch organization, Press Now) is implementing a program of specialized assistance for six local and regional API member newspapers. The beneficiary newspapers have been selected, together with the program financier, depending on their managerial potential, development trends, and motivation of each newspaper to get involved in viability-strengthening activities. The following publications were selected: “SP” (Bălți), “Observatorul de Nord” (Soroca), “Unghiul” (Ungheni), “Cuvântul” (Rezina), “Cuvântul Liber” (Leova), and “Business info” (Cimișlia). The program activities are focused in several main directions: business planning (preparation of business plans); marketing activities and market research; improvement of quality and graphic design; promotion of the publication; and strengthening of

professional skills of the staff. The assistance of experts in the respective areas is ensured at all stages. Thus, in the preparation of business plans, newspaper managers were consulted by specialists of the Moldovan-American Center for Private Initiative (MACIP); a broad research of the distribution market of the beneficiary newspapers was conducted by the Moldovan branch of TNS Ukraine; and professional consulting on design modernization was provided by the international expert Koen Guerts, owner of a Dutch design company with experience of participating in similar programs in many countries of the world.

MACIP experts, who developed the business plans, established the strengths and weaknesses of each newspaper and prepared a set of suggestions for each of them, which could contribute to their business development. In general, the suggestions refer to the promotion of advantages over the competitors, diversification of newspaper topics, intensive promotion of the newspaper’s name among the readers and advertising clients, “reorientation” towards younger readers, development and promotion of their own advertising offers, orientation towards the electronic version of the newspaper, etc.

The results of the market research conducted in the distribution regions of the beneficiary newspapers confirmed the stable positioning of the independent local newspapers in comparison with their local and national competitors on the media market, at the same time offering to the newspaper directors additional data, which will be useful to them in planning their subsequent activities. The study was conducted during November-December 2005 by telephone interviewing based on CATI methodology, which is characterized by high accuracy, total lack of falsifications and increased speed in obtaining data. During each survey, 500 respondents from the region corresponding to the newspaper’s distribution area were interviewed, this sample representing the respective communities in miniature. In the case of “Observatorul de Nord,” for example, a survey was taken using people of both sexes and aged between 16 and 65. 266 persons from Soroca, 137 from Drochia and 97 from Florești were surveyed. The study showed that this newspaper’s position on the media market is very good, as compared both with the national and with the regional newspapers. 47.1% of the population in the region have read or leafed through this newspaper at least once in the past half a year; 21.4% read it on a regular basis. The average

audience of one issue constitutes about 11,880 readers. In other words, “Observatorul de Nord” has many and loyal readers. By the way, the loyalty of the readers of this newspaper is the highest compared with all other national and local newspapers. The newspaper’s editorial office has now exhaustive data about the sex, age, social and financial status, employment, intentions to buy one or another product in the near future, and other information about its readers. In the “hands” of a smart manager, this information can “transform” into heavy arguments during negotiations with potential advertisers suppliers. The study also shows that a in advertising module published in a single issue of the Soroca newspaper will be seen by 21.4% of the region’s population, whereas placing the module twice increases this number to 27.8%.

Based on the answers to the survey, the marketing research also offered a few suggestions regarding the topical content of each newspaper in order to attract new readers. In the case of

“Observatorul de Nord,” for instance, it was recommended to include a sport column and to increase the “doses” of cross-word puzzles, social chronicle and musical charts; it was suggested that the newspaper “Business info” write more about healthcare and crime reports.

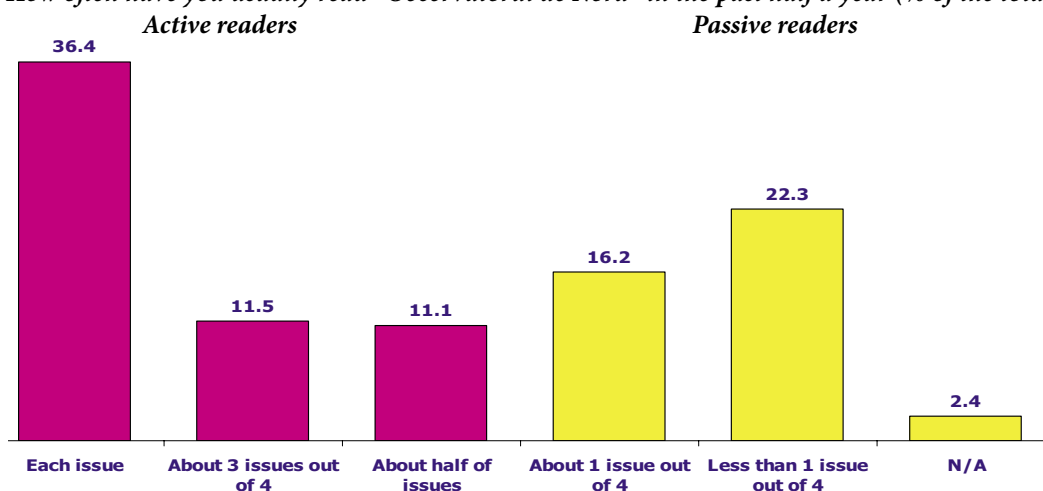
During January–February 2006, the newspapers beneficiary of the program implemented by API conducted, for the first time, their own surveys on the topical preferences of their readers (this time, mainly from the rural area). The survey results will allow the editors to adapt the newspaper’s editorial content to the readers’ requirements. The same will be true for consultation on design modernization, which started with the visit and a seminar held by the Dutch expert and continues with the assistance provided to the 6 local newspapers by several professional designers from the capital.

The program will continue until the end of this year.

Age structure of the audience of newspaper “Observatorul de Nord” (% of the half-year total)



Question: How often have you usually read “Observatorul de Nord” in the past half a year (% of the total audience)?



Source: Media Marketing Index Moldova

Dumitru LAZUR

Privatization of governmental newspapers: change of shape, not of content

During May–June 2005, the Government gave up its control of the newspapers “Moldova Suverană” and “Nezavisimaya Moldova,” this decision being, according to Prime Minister Vasile Tarlev, “a result of public consensus.” (On 4 April 2005, the Christian-Democratic MPs voted for the re-election of Vladimir Voronin to the office of President of the Republic of Moldova, who assured them that their ten propositions would be implemented, among which was the “cessation of publication of the governmental newspapers “Moldova Suverană” and “Nezavisimaya Moldova.”)

The liquidation of these state enterprises, “Moldova Suverană” and “Nezavisimaya Moldova,” is argued on paper in this way: “fulfillment of the state’s obligations to prevent and limit the monopolist activity in the field of state mass media.”

After the respective Government decrees were published in “Monitorul Oficial,” the subtitle “Founder: Government of the Republic of Moldova” on the first pages of the denationalized publications was replaced with “National independent daily.”

Nonetheless, the editorial policies of the independent newspapers “Moldova Suverană” and “Nezavisimaya Moldova” have not undergone any major changes, both of them continuing to focus on covering the activity of the leadership of the Republic of Moldova, primarily that of President Vladimir Voronin. For instance, in its edition of 18 May 2006, exactly one year from the adoption of the liquidation decision, “Nezavisimaya Moldova” published, on the first page, four pieces of news describing in detail events in which President Voronin had participated. “The head of the state talked with the US ambassador, Heather Hodges...,” “the Moldovan president, during his visit to Germany, met with representatives of the Bessarabian Germans Association...,” “V. Voronin chaired the meeting of the governmental work group regarding Moldova’s participation in the Millennium Challenges Program” etc. The materials are accompanied by photographs, with the President in the forefront. This independent newspaper also published a presidential decree, a letter of congratulations on behalf of the head of the state, and an article on a press conference of the Informational Development Ministry.

In the issue of 1 June 2006, again, one year from the adoption of the decision of its liquidation, “Moldova Suverană” informed its readers that “the central authorities participated in the last bell festivity,” that “President Voronin had a meeting with the holders of Merit Scholarships,” that “the head of state received the visit of...,” that “Karel de Gucht had a meeting with the Moldovan

Minister of Reintegration,” etc. In the photos were Voronin, Tarlev, and Țvircun. Additionally, the President’s decree appeared on the first page and the sympathy message addressed by Voronin to his Indonesian counterpart was published on page 3.

As in the past, the “independent” newspapers attack, with or without reason, the politicians and public figures that are problematic to the ruling party. An example: on 2 February, the Deputy Chairperson of “Moldova Noastră” Alliance, Vitalia Pavlicenco, requested the General Prosecutor to make public the names of the new owners of the newspapers “Moldova Suverană” and “Nezavisimaya Moldova.” Six days later, “Moldova Suverană” published an article in which it accused Pavlicenco of having misappropriated three apartments in Chișinău. Coincidence?

“Manager” Batog

It should be noted that the denationalization was done without transparency and without a tender being announced for the sale of the publications.

Who are the new owners of the denationalized newspapers? It is written in black on white in the technical boxes of the two publications: “Founder: Commercial Society ‘Publishing House “Moldova Suverană” SRL.” That is it. We find out from the Prosecutor General’s office, interpreted by Deputy Vitalia Pavlicenco, that the “Manager” of the “Publishing House “Moldova Suverană” is Sergiu Batog, who is also General Producer of “Teleradio-Moldova” Company and who has as “associates” Ion Berlinski and Iuri Țișcenko, currently directors of the ex-governmental publications. We can only suppose who, in fact, backs the founder. According to some sources, the two dailies are published with money from the Moldovan President’s son, Oleg Voronin. Certain is the fact, however, that the current “Manager” of the Publishing House “Moldova Suverană” is also the producer of the Public Company “Teleradio-Moldova.” Before rising to this position, Batog was an anonymous journalist.

One more detail. On 1 July 2005, the State Enterprise “Casa Presei,” where the two denationalized newspapers have their premises, decided that the economic agents who rent offices in this building should enter it only if they show special passes. The exception to this order: the employees of “Moldova Suverană,” “Nezavisimaya Moldova” and “Moldpres.”

25 district newspapers

If, at the national level, the governmental newspapers have been denationalized at least on paper, at the district level things

have not budged. According to the data provided by the Association of Independent Press (API), 25 local newspapers are published in the Republic of Moldova today using public money. As a rule, the founder – the District Council – dictates the newspaper's policy. According to a resolution on the need for the denationalization of local public press, signed by API and the Independent Journalism Center (IJC) on 26 July 2005, "the district council newspapers, being subsidized from local public budgets, sell at lower prices than the private ones; in some districts, the mayor's offices, state institutions, and post offices have specific tasks of subscribing people to the newspapers published by the district councils, while the independent newspapers are confronted with obstacles in their subscription campaigns; and the advertising is distributed in favor of the state newspapers."

Let us examine a few examples. At the end of March 2006, in Sângerei, Feodosia Furculiță, at that time Deputy Minister of Finance and now Director of the Customs Department, "asked" the reporter of the local independent newspaper "Ecoul nostru" to leave the meeting room. The reason – "the work visit is held behind closed doors." On the other hand, the newspaper of the District Council was not hindered from writing about the Deputy Minister's visit. The director of "Ecoul nostru," Maria Țurcanu, says that there have been an increasing number of cases lately when public officers refuse to provide information on the grounds that they have their own publication, that is, the District Council newspaper.

Some directors of the districts in which council newspapers are published have lately "invented" a new method of settling accounts with the free press. During winter-spring 2006, at the request of the directors of Florești and Rezina districts, the prosecutor's office ordered that controls be conducted in the editorial offices of the regional independent newspapers "Observatorul de Nord" and "Cuvântul."

For reasons that are hard to understand, the appearance of an independent newspaper in the district of Florești was not well accepted by the District Council Director, Mihai Rusu. The communist director probably heard that "Observatorul" journalists do not spare anyone, be they local authorities, employees of law-enforcement bodies or businessmen, promptly condemning any deviation from the law or the democratic principles. M. Rusu did not hurry to welcome the appearance of an independent periodical in Florești and requested the General Prosecutor's Office and the State Registration Chamber "to verify the lawfulness of registration of "Observatorul de Nord," Florești edition."

Florești prosecutors kept the editorial team in suspense for over a month, slowly leafing through the publication's constitution documents. Finally, no illegalities were found in the newspaper's registration documents.

Almost the same scenario was played out in Rezina. The verdict – "zero violations." Tudor Iașcenco, the director of the newspaper "Cuvântul," is convinced that the controls initiated at the district director's request were an attempt of settling accounts with his publication. "The failure they have suffered might incite them to do even more. I do not exclude the possi-

bility that current authorities may plot new scenarios for doing away with the free press," T. Iașcenco states.

Propaganda instrument

The same resolution on the need for the denationalization of local public press says that "the content analyses conducted by local and international organizations during the latest electoral campaign for the parliamentary elections of March 2005 showed that public newspapers had massively supported the ruling party and had discredited its opponents, thus diverting from the fundamental principles of public press operation." It is during elections when the print-runs of these newspapers skyrocket, being usually distributed free of charge. But in "peace" time, the print-runs of the newspapers published by councils barely exceed 1,000 copies per week. Thus, the publications published using public money are intended to polish the image of the ruling party, especially during electoral campaigns, and to discredit the opposition parties. That is it.

API and IJC have proposed to the Moldovan "media community" to draft and promote a law on the denationalization of mass media in the Republic of Moldova, which would ensure equal conditions of professional activity for the entire press, national and local. At least one advantage is on the surface: no more public money will be spent on the publication of newspapers. The problem, however, is of a different nature. How will local media be denationalized? By replicating the model of "Moldova Suverană" and "Nezavisimaya Moldova"? By changing the editor, but not the editorial policy? Many questions, few answers. The example of "Moldova Suverană" and "Nezavisimaya Moldova" proves once again that the ruling party will not give up easily its propaganda instruments, but will find legal solutions, alleged to be European, of democratization of mass media. Changes of shape, but not of content.



Photo: IJC

Study visit of Moldovan journalists to Georgia. Under the auspices of the Peacebuilding Framework Project administered by the Department for International Development DFID) Section at the British Embassy in Chișinău. (May 2006)

Ion MITITELU,
Chairperson of the Association of Independent Press, Director of newspaper "Cuvântul liber"

Public support for the local press

In over ten years from the appearance of the first independent local newspaper in the Republic of Moldova, it is well established that they have taken roots and become a speaking trumpet of the citizen's interest, informing correctly and impartially the reader.

Through their editorial policy, the local newspapers have found a public readership also in regions other than those in which they were initially being distributed. Thus, the Rezina newspaper "Cuvântul" is distributed and read today not only in the district of Rezina, but also in the districts of Orhei, Șoldănești, Telenești and the town of Râbnîța. The newspaper "Cuvântul liber" from Leova is also read in Hâncești, Cahul, Cantemir and Cimișlia districts. The weekly "Observatorul de Nord" from Soroca has "entered" the district of Florești (which was not well received by the Director of Florești district, Mihai Rusu, who requested the General Prosecutor's Office and the State Registration Chamber to verify the lawfulness of registration of "Observatorul de Nord", Florești edition) and "Business-info" from Cimișlia is also read in Hâncești, Basarabeasca and Leova.

The reader's interest "obliged" the directors of the newspapers to undertake active actions of extension either by setting up sub-editorial offices in the respective regions, or by creating a local reporter network. Thus, "Cuvântul liber" has created an additional reporter network, which covers the districts of Hâncești, Cahul and Cantemir, offering to the reader the possibility of reading news, information and reports from the respective regions as well.

Besides the general problems of the Moldovan Press, restriction of the access to information is a major issue, as revealed in the following examples: refusal to accredit a journalist of the Association of Independent Press to the Parliament and the Government; forbiddance, in many districts, of press representatives to participate in the first organizational sessions of district councils, newly-elected in 2003; the attempt to deny the access of local press to the onsite meetings of the Tarlev-I Government and to the Prime Minister's onsite visits (this is the case of the independent periodicals "Cuvântul liber", „Ecoul nostru"); taking the newspapers to court by the public officers "whose honor has been injured" (only at the end of 2005 did "Gazeta de Vest" got rid of the burden of a lawsuit brought against it by the district director Gheorghe Cibotaru, angered by a critical article written about him. The publication's editor-in-chief, D. Mititelu, was in and out of courts for over 18 months, so that, in the end, the plaintiff gave up the lawsuit. The newspaper "Cuvântul" from Rezina had six lawsuits brought against it and won all of them). Furthermore, the local press has been confronted, after the return to the soviet-type dis-

tricts, with the competition of the publications of district councils, which are founded and supported exclusively from public means. These local newspapers are in fact party newspapers of the communist majority from the district councils and promote the policy of the party district bodies, and so, they build political partisanship to the ruling party.

Public funding – a time's imperative

The Association of Independent Press has constantly promoted the idea of denationalization of local press. For this purpose, a round table has recently been organized, to which were invited representatives of international and local press, of the Parliament and Government (the latter two chose not to honor us with their presence). On the other hand, API thinks that ensuring the funding of local newspapers with certain amounts from the public money would contribute to the survival of a local independent press. We must acknowledge that the local independent newspapers survive thanks to the journalists' enthusiasm as well as the small income from advertising and subscription collections, which do not cover production costs.

The public (state) funding of the local independent press would solve two important problems. First, the newspapers would become totally independent from the will of the founding owner, and, second, they would serve only the interest of the reading public. And, not least, the editorial staff would have the possibility to work more on the graphics and topical content of the newspaper for the public benefit. It should be mentioned that such practice has existed, for about 50 years, in countries such as Sweden, Norway, Denmark, France, Germany and others. Public funding must be provided without discrimination in order to ensure diversity and pluralism, and the state must not found its own local newspapers, a practice we went through during Soviet times.

The "round table" I referred to above launched a Call in this regard to the special commission of the Moldovan Parliament, but we have received no answer thereto. The public funding of the independent local press is also necessary for the reason that paper prices and printing costs have increased significantly, whereas the State Enterprise "Poșta Moldovei," a monopoly in the print media distribution market, dictates the fees for the distribution of newspapers to the reader.

In our opinion, the local independent press has gained its right to live in the media market, and the slogan of this press, which has become the slogan of the Association of Independent Press – "For a professional, non-aligned and profitable press" – fully represents it at present.

Elena MIRON

Overview of mass media in Gagauz-Yeri

The state holds control over most mass media in the Gagauz autonomy, either by means of ownership, or indirectly, through the persons who publish or control those mass media. In theory, “state” mass media should provide both newspaper and broadcasting space for various public opinions existing in the region. In reality, however, this is not noticed to be taking place.

Comrat authorities own the regional company “Teleradio-Gagauzia” and three Russian language publications. The official publications have been maintained in the three districts (Comrat, Ciadâr-Lunga and Vulcănești) and come out periodically as mouthpieces of the authorities. “Vesti Gagauzii” is a regional newspaper of the Executive Committee and of the Popular Assembly from Comrat, with a print-run of 5,000 copies. “Vesti Gagauzii” periodically publishes an insertion in Gagauz.

The newspaper “Znamya” comes out in Ciadâr-Lunga and “Panorama” – in Vulcănești.

“Teleradio-Gagauzia” is a regional radio and TV company. The station broadcasts news bulletins, analytical and entertaining programs as well as sport programs. The radio and TV programs are at present received only by the districts of Comrat and Ciadâr-Lunga. The Turkish Agency TICA has currently granted USD 350,000 as humanitarian aid to the Regional Company “Teleradio-Gagauzia” to extend its coverage. According to Simion Lazarev, President of “Teleradio-Gagauzia,” they are planning to install new transmitters, which would ensure the reception of programs to the entire territory of the Gagauz autonomy. The transmitters have been brought from Turkey. TV pillars of 100 meters in height are being installed in Vulcănești.

Also, the Ciadâr-Lunga branch of “Teleradio-Gagauzia” has been opened with the support of the same TICA Agency. Besides its own programs, the radio relays a Turkish radio station, and the television, after broadcasting its own programs, relays TRT1 from Turkey.

Independent newspapers have also come out in Comrat – “Nastoyaschee Znamya,” “Achyk Gyozy,” and “Edinaya Gagauzia.” These depend on the “sack of money” from the

Turkish state and on some party leaders. The publication “Edinaya Gagauzia” – “United Gagauzia” – is the newspaper of the social-political movement with the same name. It comes out in a print-run of 4,041 copies. Besides the activity of the opposition, the newspaper also covers social problems. The newspaper’s editor-in-chief, Valeri Cherioglo, stated that the publication is always confronted with the almost total lack of access to information. “We usually receive no answers to our requests for information submitted to the authorities. They simply ignore us,” Valeri Cherioglo says. The only newspaper protecting human rights in the region is under permanent pressure from the authorities, Cherioglo concludes.

The newspaper “Achyk Ghyoz” (“Third eye”) has as its subtitle “The newspaper of non-party people” and is headed by Ivan Topal (editor-in-chief). It does not come out regularly, due to financial difficulties.

The Gagauz autonomy also publishes the magazine “Sabaa Yldyzy” – “The morning star” (Editor-in-chief Stepan Bulgar), funded by TICA Agency. A lot of space in the publication is taken by photos of the members of the Executive Committee and Popular Assembly of TAU “Gagauz Yeri.” The magazine was conceived as a support for Gagauz pupils and students, publishing in each issue old photographs (the history of the Gagauz people in pictures).

The publication “Ana sezyu” (Editor Feodor Zanet) is published in Chisinau. It comes out with the support of TICA Agency and is distributed free of charge in the autonomous region. The newspaper gives priority to “high-level meetings” taking place in the region and to various calendar dates. It is published in Chisinau and therefore does not manage to keep pace with the local events and inadequately covers the daily problems of local life. It was founded as a state newspaper, but today it has the status of public organization.

The only opposition newspaper in the Gagauz language “Halk Birli,” which was coming out in Comrat in a print-run of 1,000 copies, has not come out for one year.

Gagauz journalists are isolated and encounter big difficulties in launching the independent press. Therefore they request the support of the journalists from Chișinău and from other regions.

Daria ASMOLOVA

Transnistrian press: collective propagandist and agitator

At the beginning of our discussion about the mass media currently active in Transnistria, we should mention that the leader of the unrecognized Republic, Igor Smirnov, perfectly understood, from the very beginning of its self-proclamation of secession in 1990, media's role in the formation of public opinion that is loyal to its regime.

The first newspaper that called for the Transnistrian population to engage in full-scale strikes in enterprises and then to block the railway (events that occurred from the end of 1980s to the beginning of 1990s) was "Bastuyuschii Tiraspol" (*Tiraspol on strike*). In the beginning, this publication was being distributed free of charge. Because of their experience with the press in Soviet times taking the form of "law" (beginning with "Pravda" and ending with the district newspapers), the population had trust in the printed word. Thus all "BT" materials were being perceived as true by a large part of Transnistria's inhabitants, especially in the big cities – Tiraspol, Râbnîța and Bender. The same position was taken by the Tiraspol newspaper "Tiraspolskaia Pravda" (*Tiraspol Truth*). At the same time, in Dubăsari, for example, the editorial staff of the district newspaper "Znamya Pobedy" (*Flag of Victory*) was divided into two antagonistic parts – and a pro-transnistrian newspaper "Zarya Pridnestrovia" (*Transnistrian Dawn*) was created in August 1990, but "Znamya Pobedy" continued to come out until the full-scale military actions began. In fact, in the spring of 1992, their editorial office was devastated by the supporters of the "Transnistrian Moldovan Republic." In the above-mentioned cities, the majority of the population took the side of the self-proclaimed Republic, while in the district of Dubăsari, the ratio of supporters versus opponents of a united Moldova was approximately fifty-fifty. Both newspapers were presenting to their readers two completely opposite opinions about the events that were taking place at that time (and no Moldovan newspaper was being distributed during that period, nor are they, in fact, at present). As a result, a significant part of the district's inhabitants rose to protect the integrity of Moldova's territory, especially the inhabitants of Corjova suburb, many of whom fought in the armed structures of the Republic of Moldova. Also, the radio center of the town of Dubăsari was very quickly destroyed, and pro-secessionist programs began to be broadcast not only in the region, but also in Russia and Ukraine.

Through this introduction, we would like to underline that the Transnistrian administration has applied, from the very beginning, the unforgettable proclamation of comrade Lenin, who said that the newspaper is not only a collective propagandist and agitator, but also an organizer. The administration of the self-proclaimed TMR, headed by I. N. Smirnov, succeeded in splitting the people of one country in two, throwing them onto both sides of the barricades. Besides this, thousands of people died who rose up in arms to defend their political convictions, as well as peaceful civilians. Moldova was not noticed at that time to be promoting propaganda activities on the left bank of the Nistru River. As mentioned above, the newspapers from the Republic of Moldova were not being distributed in that region, and the half-hour Russian language program "Mesager," as well as the few radio programs that were making propaganda in favor of the position of Moldova's leadership, were not enough for the formation of an opposition against the administrative regime of I. Smirnov. It appeared, developed, and strengthened.

After the end of the war and the introduction of the Russian peace-making forces, the legendary commander of the Russian 14th Army, General Alexandr Lebedi, quickly solved the situation that had formed in Transnistria. He was the first to speak out about the fact that not everything was, in fact, wonderful in the "Transnistrian state," criticizing the unprecedented corruption in that region, bringing attention to the settlement of accounts with those who disagreed with the "general line" of the TMR leadership, and pointing out many other negative phenomena. And then, the mouthpiece of the 14th army, called "Soldat Otechestva" (*Soldier of Motherland*), appeared as the first opposition newspaper, but which ceased to exist when the 14th Army commander left Transnistria.

On the other hand, the official Tiraspol mass media, which were under the protection of I. N. Smirnov, from the very beginning enjoyed and continue to enjoy his total support. Huge amounts of money have been spent for this purpose. At the beginning money was spent for the purpose of renting space in hotels, and later for the purchase of villas, for most advanced equipment and computers, and for the personal cars of the editors-in-chief (however, the salaries of ordinary Transnistrian journalists do not "reach" even 100 dollars). At present, there are about 40 publications in Transnistria. Newspapers are published in each town, and their founders are represented by the state administration (their heads are appointed by Smirnov), and of course, their materials do not differ from the opinion of the Transnistrian leadership.

Mass Media in Moldova

The role of leader is taken by the daily “Pridnestrovie” (*Transnistria*), whose founders are the President and the Supreme Council. This newspaper reminds us of a city newspaper from the times of the former USSR – the only difference being that Soviet party newspapers allowed criticism with, of course, approval “from above.” Moreover, there used to be a very effective column: “The newspaper raised the problem – what has been done about it?” After such a story, those who were seen to be guilty were reprimanded according to the party line. The current “Pridnestrovie” does not practice any kind of criticism. And in connection with the recent complications in the process of negotiations between Chişinău and Tiraspol, many of the materials published during the past year have obviously been dedicated to the denigration of Moldova. Now “Pridnestrovie” has been surpassed to some degree by the weekly “Novyi Dnestrovski Kurier” (*New Transnistrian Courier*), which is supposedly protected by the most feared ministry in Transnistria, the State Security Ministry. The expressions used by this publication against the Republic of Moldova as well as against its leadership and others cannot be reproduced in writing – it is enough just to mention that the Russians from Moldova are called “losers” by “Novyi Dnestrovski Kurier.”

Currently there are three official state languages in Transnistria. The founders of two newspapers, one in the Moldovan language (published using Cyrillic characters), “Adevărul Nistrean” (Nistrean Truth) and the Ukrainian language newspaper “Gomini”, are also the President and the Supreme Council. These weeklies differ very little from “Pridnestrovie”.

But we would like to speak especially about the newspaper “Profsoiuznye vesti” (*Trade Union News*) which, too, is officially under the patronage of the Transnistrian authorities. In spite of its boring title, this publication conducts professional journalistic investigations dedicated to subjects of current interest, such as the great scandal around the sale of the Cuciurgan Hydropower Station and, subsequently, the “departure” from Transnistria of the Minister of Justice Victor Balala, the lamentable situation of the healthcare system, continuously increasing prices on consumer products, inadequate salaries and pensions in comparison with the population’s living standards, and many others. Even between the lines, as they say, a careful reader can find out many things. The editor-in-chief of this publication, Ludmila Coval, graduated from the State University, Faculty of Journalism.

The first independent newspaper was “Novaya Gazeta” (*New Newspaper*) from Bender, which celebrates its eighth anniversary this year. Its founders and editors – Grigori Volovoi and Andrei Safonov – are persons known beyond the Transnistrian borders, and even the history of the creation of “NG” and the multiple attempts of the employees of the State Security Ministry to close it down (how many times has the entire print-run been sequestered on the way from the printing

house!) deserve a separate story. An expert bureau, “Ghipoteza” (*Hypothesis*), carries out its activity under the newspaper. Its authors, when commenting on the political situation relating to the settlement of the Transnistrian conflict, provide their prognoses regarding upcoming events. Their prognoses come true most of the time. In addition, Volovoi and Safonov went further and set up the Fund “Center for the Protection of Human Rights.” From the beginning of its activity, starting with 11 September 2001, this organization has implemented three projects. They set out to monitor the situation of human rights in Transnistria, provide free assistance to the population, and hold a number of seminars on human rights for Transnistrian teachers, students and pupils. The Fund cooperates with some international organizations such as OSCE, embassies of Russia, Ukraine, USA and other countries, and the Fund’s monitoring data are used by many international organizations and experts in their activity. A branch of the Center was opened in August 2005 in Dubăsari, and in January of this year another Center was opened in Râbnîţa.

The weekly “Chelovek i ego prava” (*People and Their Rights*) headed by Alexandr Radenko, is also engaged in the publication of materials describing the present reality in Transnistria and the situation regarding the process of negotiations. As an example of the spirit of the published stories, we can offer a quotation from material entitled “You rise, the one who has been damned!”: “The entire power is monopolized in our Republic not by some party, but by a person and its circle.” Victor Labintsev from Tiraspol writes. “All the vices of an uncontrollable power held by a single person have shown themselves in the most striking ways. The power held by a single person has, for many years, surrounded itself with numerous servicing staff: power structures, **docile mass media**, administrative resources, and puppet ‘public organizations’. Their characteristic feature consists in the fact that they have no such features. Everybody supports with ardor, unanimously and often with the same words, the policy and actions of our president. He only manages to utter something and his adulators are already nodding energetically and shouting: ‘You are riiight!’ Everybody vehemently criticizes and defames those who are disliked by the president. And the court philosophers convince us that this is the only possible situation in our conditions. Otherwise, they allege, we will not resist and the Republic will die. But if anyone dares to express their thoughts, they will be subject to public contempt and will even be banished from the blessed land of Transnistria...”

It is true that on more than one occasion has the staff of this opposition publication been savagely attacked by “unknown” individuals. The doors of the apartments of Andrei Safonov and of Nicolai Buchatsky, his colleague from the weekly “Chelovek i ego prava,” were set on fire. Moreover, it is a wonder that Nicolai Onufrievici’s granddaughter saved herself, as she was



Photo: IJC

Meeting of the network of journalists writing about diversity. Under the auspices of the Peacebuilding Framework Project administered by the Department for International Development (DFID) Section at the British Embassy in Chişinău. (September 2005)

in her grandfather's apartment one day, and concentrated acid was thrown on the staircase in front of their apartment. Also, "unknown" individuals dropped in at the editorial office of the weekly and stole all the equipment and computers. The action conducted last summer by the youth organization "Proryv" (*Break-through*) was condoned by an officer of the Ministry of State Security, Dmitri Soin, who announced an international search regarding a number of crimes committed by Radcenko (what kind of "search" are we talking about, if almost everyone knows his address in "TMR"?) and which bore an ugly visage. The supporters of "Proryv" carried a coffin for half a day through Tiraspol, which had the inscription "Radcenko" on it, and in the end threw it under the windows of Smirnov's residence. "Proryv," is already well-known for its open hooligan actions, such as the attack on the office of the OSCE mission in Tiraspol. (The Minister of External Affairs, Valeri Liţkai, reproached the youngsters that they were not firm enough in their actions: big deal that they had torn up and burned mission's the flag and had made a dummy of William Hill; they should have taken the mission by storm when William Hill

was there.) It also publishes a weekly, which contains a great number of pictures of Soin and articles full of spite against Moldova. In its latest issue, "Proryv" published its requests to the OSCE mission, among which was that "the mission should support all the movements in Moldova oriented towards the disintegration of the totalitarian, communist-fascist regime of Vladimir Voronin and should associate with the process of international recognition of TMR." One of the leitmotifs of this publication – as well as that of the newspaper mentioned above, "Novyi Dnestrovski Kurier", headed by Serghei Ilcenko, former comrade of Vladimir Voronin and ex-employee of the newspaper "Nezavisimaya Moldova" (*Independent Moldova*), established now in Tiraspol – is an idea permanently dropped onto the reader's head: that Moldova is preparing a new armed conflict on the Nistru.

It is impossible to elucidate in one story the activity of all Transnistrian mass media. Consequently, the discussion on this subject may be continued.

Nicolae POJOGA

Photojournalism crisis or the myths of disappearance

In memory of the late Petru Cazacu, the photojournalist with whom I have discussed many times this delicate subject

Introduction

Upon the appearance and development of television, voices were heard (absolutely!) predicting the disappearance of theater in twenty years at the most. A little earlier, painting “was disappearing” giving place to photography; later, computer files and the Internet claimed that they would replace the book and print media, the digital creatures (in the fine meaning of the word, of course) would dislocate, they say, the entire range of tools, which have served the humanity ever since the world began, etc. Obviously, this has not happened. Sometimes (see the adventure of the Book and of the Theater,) for instance things went as far as putting the false prophets to shame...

We will further try to “demythize” one of the media myths, which has been fiercely exploited for some time: the death of photojournalism. We should clear up from the very beginning who, in fact, “dies” and why. Is this, by any chance, about Reuters, EPA or AP? Or are the great masters of the immediate past not anymore enjoyed together with the monsters (again, in the finest possible meaning of the word!) of our days?² No, a thousand times – no!

The world still needs good photographs. The eye and the heart feverishly look for them on newspaper and magazine pages. Nothing can pass unobserved by the reader, not a single infinitesimal beginning of talent nor even the smallest hesitation of photojournalism. The unfolded newspaper quivers beginning with the first page. The words from the titles give birth to vague pictures, the images from the photographs generate words, which sing and vibrate like some silver strings. We feverishly go over all of them: good or bad, true or false. Is this what the death of photojournalism looks like? Of course not! Somebody else is dead and rotten³...

The parade of the alive one

According to the textbook definition, photojournalism brings together at least three types of press photographs, namely: the news, the report, and the documentary. Our newspaper consumer is not used yet to this diversity derived from the good life. Our dear reader takes out money from his pocket and buys the newspaper in which (with no exception!) there are published

only the following types of photographs:

In the **news** column, we find old pictures (anonymous, outdated, mutilated, stolen-from-somewhere);

The **report** includes the president or the party leader (face to face with the electors, farmers and the other people; saturating, propagandistic and post-soviet pictures);

And, finally, the **documentary** with photographs, pure and simple. Pictures that suggest something. Sometimes – the Great National Assembly. Most of the time, however, our documentary contains pictures that are staged (“posed”), manipulated or pulled out of context. Although the news booth’s window seems, at first sight, to suggest nerve and diversity, when looked at more closely, the pictures simply represent some shadows. The ones from magazines, less shadowy, are simply bad. Overall view, needless to say! Try to discuss our press photography with the numerous visiting mass media experts. They will appear to be at least surprised. If the text remains mysterious and slightly promising for the foreigners who do not speak Romanian or Russian, then the pictures leave no place for hopes.

“I have traveled a lot, I have read and leafed over thousands of titles from the entire world, but I have not seen anywhere pictures as weak as those from the Moldovan press,” the American Allan F. says.

“I do not understand absolutely anything,” the photojournalist Victor S. from Venezuela, says. “I have tried to find the local photographers, the photojournalistic community, a competition.. Instead of all these, I had the revelation of North Korea combined with a more recent one, of Tiraspol,” Victor added, freeing himself with difficulty from the hugs of a local photographer, very highly and well-positioned, but who wished to sell him (at a very peppered price, in fact) pictures with fruit and vegetables, with girls dressed in embroidered blouses and skirts, with apple- and peach-trees in bloom... Our man got off cheaply, escaping to the countryside, among people dressed in plain clothes!

Yoray L. from Israel, wishing to make a small bargain, proposed to one of our newspapers, self-declared “the most influential one,” a novel reportage from Transnistria. The nice fellow wanted to cover some of his contingent expenses ... He was told

1. I could bring up here such names as Don McCullin, Robert Capa, Eugene Smith or Cartier-Bresson. Or Rodtchenko, or George Rodger... Nothing is, however, riskier and more irresponsible than this culturological adventure named List-of-the-best. Relevant in this regard are the long strings from our patriotic journalism... But let us go back up, to the subject!

2. Drawing up a list of the current and alive the-best is tens of times riskier... You mention Salgado and overlook Kudelka, show that you support Naughtwey and feel sorry for

passing over (I risk to become a snob!) Alexandra Boulat, a French woman of millions, who visited us around 1991. Now, if footnotes to footnotes existed, I would add that, in what concerns us (that is, the Moldovan photojournalism), a list of the best could become fatal for “yours...” And so, I better give up!

3. Strong words around! Moreover: worthless rhetoric in this story. “There is – there is not!” Just like the style of the editorials signed by the chief and which (the style) has set our teeth on edge altogether.

in the editorial office that the money, in the amount of MDL 55, less the income tax, would come in one month, and that he had to submit a contract for services, to sign a document certifying the delivery and receipt of the works, two copies of his ID card and passport (translated and notarized), a copy of the passport page with the visa allowing him to enter the Republic of Moldova. "Well, papers are the disease of the modern civilization", says sadly Y., the man of rare tactfulness, "but to pay me with a beer!?"

A good beer, one more line! – we add those who have been paid badly, really badly, years in a row, the entire life. Why do these ones, with expensive tools and fat honoraria, keep on getting annoyed and troubled?! Don't they like our beer?..

In other words, we pass on to Saving solutions

In order to save and revive photojournalism, we should first of all think about those who profess it – the photojournalists. I think they should be saved in the first place. When paid decently,⁴ they will obtain access to information, modern technologies and training. Enrolled in professional associations, the photojournalists will obtain a rise of credibility and social protection. As to the first grievance – there is little hope it will happen by itself! Better to say – never. Never, not in a thousand years, will an employed press pay its employees.⁵ Be it party, state, "independent," "opinion" or of opposition. I cannot escape the feeling of the person who all of a sudden has found himself in a band of day-workers. Working for food! Little and bad!

It is true, we get sometimes to take pictures at weddings.

But this happens more and more rarely. All the great ones, mentioned above, together with the hundreds of us, not mentioned, have got our money also from wedding and christening ceremonies. The main income, however, cannot come from weddings. We cannot fight with their cartel, of ceremony photographers. We must create our own! The request for the registration of a profile association has already been filed with the Chamber. We are expecting requests to join us. In a year, we come out on our own profit. I repeat: the world still needs good photographs. For photojournalists, the World is a little better organized and broader than the current periodical press from Chişinău. Let them take care of the work visits to cattle farms and all other such nonsense! Let them go on with filling up their family albums with pictures immortalizing depositions⁶ of flowers, happy children in sovereign arms, countless tied ribbons, infinite personal virtues and honors!

Conclusions

There is a saying – every evil has its good. The disaster we have found ourselves in can become, in a way, the most fertile soil for an extremely good job. Let us take a careful look around us. No specialized agencies! No dedicated reporters that are paid and trained at world standards! An empty space, as they would say. The bad side (good, for some) comes from the accessibility of pictures via the Internet, or the so-called "image catalogues," resources, which, being related to a "capitalist" lack of common sense, offer to the editors that are "insensible to the pains of our trade" everything they wish for.⁷ At a very low price. The truth being in the middle, all we have to do is get down to work and tip the scales in our favor.



King Mihai I and Mother Queen Elena accompanied by local officials at the Great National Assembly Square. Chişinău, 30 October 1942. Unknown photographer.

The picture was taken from the "Almanac of Bessarabian Press" for the year 1942 (the defect comes from opening the book's spine with pin) with the permission of the BBC Office in Chişinău.

An epochal picture but, having certain reference marks and connotations with the current events, it could have successfully illustrated present news. We are referring here to an opportunity missed by the newspapers, which chose to illustrate the recent visit of the former monarch.

4. When we say "the world photojournalism crisis", we mean not as much spectacular falls of the genre as the poor remuneration of the work. Around 1992, foreign reporters were dreadfully speaking about "crisis" invoking the freeze of their daily rates at "only USD 350". Neither then, nor later did I have a sufficient vocabulary (in English, of course) to be able to express my personal opinion in this regard.

5. Sorry for the generation of expressions, which want to be famous.

6. What a word!

7. Pay attention! "The employer-employee relation in the press: between law and reality" has come out. Ask for a copy from Vlad Bercu (Association of Economist Journalists) or Alexandru Canţir (Press Freedom Committee). It's worth it!

Olivia PÎRȚAC

European Court of Human Rights *versus* violation of the freedom of expression in Moldova

The European Court of Human Rights is undoubtedly the most effective supranational judicial instrument currently existing in Europe. More recently, it has been regarded as the last hope for the citizens of the Republic of Moldova, who have not found justice in the Moldovan judiciary.

However, the European Court is a "pretentious" court, with limited competence. It does not interfere in every dispute it is called on. However, whenever it decides that it is qualified to judge regarding an eventual violation of rights, it will refer in its decision only to two aspects: it will establish or not a violation of the provisions of the European Convention on Human Rights, and whether it is the case that the guilty state repair a damage caused to the applicant whose rights have been violated.

How to reach the European Court?

About 90 percent of the applications reaching the Court are declared inadmissible at an initial phase. The admissibility conditions constitute a complex subject, but a few essential aspects are as follows:

- The Court will consider only a case in which the applicant complains about violations of his rights provided for by the European Convention of Human Rights (material competence);
- The petitioner will complain about violation of his rights by a state, which has ratified the European Convention on Human Rights (territorial competence), a violation that took place after the ratification (*rationae temporae* competence);
- The applicant will have exhausted all internal means of appeal and will resort to the Court within six months from the moment he found out the final and irrevocable decision of the national courts (the Court has admitted a few exceptions with regards to this rule).

Also, specialized legal assistance is required in order to appeal to the Court, the lack of which could constitute a serious impediment to winning the case.

The Court does not tolerate derogations from the admissibility conditions and from the observance of certain formalities, which causes most of the applications to be taken out of the roll at an early stage.

What does it mean to win in the European Court?

A case declared admissible will ordinarily be examined also in open court. If the parties have not secured a friendly settlement or the applicant has not withdrawn his application, then the Court, after examining the arguments of the parties, will decide whether the sued state has or has not violated the European Convention. The Court may also decide payment of compensations for the suffered pecuniary or non-pecuniary damages as well as of properly argued trial costs and expenses. However, the Court may not decide the payment of such sums if it considers that the establishment of the violation itself constitutes a sufficient satisfaction for

the compensation of the damage suffered by the applicant, and the trial costs and expenses were not necessary and/or argued.

And what may the Court not do? It may not amend the legislation or practice of a state, and it does not annul any decision or other internal official act. The states are sovereign and decide on their own whether to execute or not a decision of the Court and to what extent. Sometimes the states pay the amounts decided by the Court without making any other necessary efforts to ensure the full execution of its decisions and observance of the European standards. However, the Committee of Ministers of the Council of Europe will apply various forms of pressure on the countries that do not execute them.

Normally, a decision does not only mean an individual victory. It must lead to the amendment of certain laws, to cessation of application of faulty practices, to the real implementation of the European standards in the respective country. Otherwise, the state will over and over again be condemned for the same type of violation, paying compensations for ever. Although a case won in the Court means, as rule, payment of large sums from the budget to the injured party, the beneficial effect on the society may be significant.

Decisions condemning the Republic of Moldova for violation of the freedom of expression

Although the mechanism for the protection of human rights stipulated by ECHR entered in force for the Republic of Moldova in September 1997, the first condemnation decision was pronounced only at the end of 2001 (the case of the Metropolitan Church of Bessarabia, decision of 13 December 2001), and the following ones – only starting with 2004. Later, however, an increase in geometrical progression thereof has been observed, which begins to worry us in the point of the state's financial capacity of coping with the imposed sanctions. This is explained by the fact that, due to the high number of requests, the Court, as a rule, comes to rule on a case only in four or five years from the lodging of an application.

Under Art.10 of the Convention, which sanctions the right to free expression, the state Republic of Moldova has been condemned, until the moment this article is being written, in three cases: *Amihălăchioaie* (Decision of 20 April 2004), *Busuioc* (Decision of 21 December 2004) and *Savițchi* (Decision of 11 October 2005). Relevant is also the *Christian Democratic People's Party* case (Decision of 14 February 2006), the Republic of Moldova being condemned for violation of the freedom of assembly and association. Taking into account the number of applications that have been lodged with the Court, this number will surely increase periodically.

Case of Amihălăchioaie vs. Moldova

The lawyer Gh. Amihălăchioaie (Chairman of the Bar Council) stated in an interview for a newspaper: "Due to the decision of the Constitutional Court, a complete anarchy will be set up in the pro-

fession of lawyer. You will see what will happen in a year. As from today, it is not a single system of organization of the profession, nor a unitary state. We have got used to this – it is much easier to live in chaos. Taxes are not paid, there is no control, and thus, no ethics, discipline or responsibility. In the light of the above, the question comes up: Is the Constitutional Court really constitutional? In 1990, the United Nations adopted the Basic Principles on the Role of Lawyers, perfectly guaranteed in our law. The profession of lawyer is independent everywhere in the world, whereas in the Republic of Moldova, it is subordinated to the executive power, and namely, to the Ministry of Justice. This represents a serious violation of the fundamental democratic principles. The Constitutional Court did not take into account the specific examples from the case law of the Strasbourg Court invoked in the observations presented by the Union of Lawyers. The Constitutional Court judges probably do not consider the European Court of Human Rights an authority. Should I understand that they have acquired more experience in five years than the Strasbourg judges in fifty years? We will certainly inform the Council of Europe that the Republic of Moldova does not observe the case law of and exigencies formulated by the European Court of Human Rights.”

The Chairperson of the Constitutional Court informed Mr. Amihălăchioaie that, taking into consideration what the newspaper had written, the issue of lack of consideration for the Court arose, in the sense of Art. 82 point 1 letter e) of the Code of Constitutional Jurisdiction, and invited him to submit his written observations on this subject within ten days. Mr. Amihălăchioaie confirmed having had a telephone conversation with the A.M. journalist about the decision of the Constitutional Court of 15 February 2000. At the same time, he stressed that his assertions had been distorted and exceeded their context. He added that, had A.M. presented him the story before publication, he would have rigorously checked the way those were presented and, thus, would have assumed the entire responsibility.

However, the Constitutional Court passed a final decision, imposing to Mr. Amihălăchioaie an administrative fine of MDL 360. It considered that the lawyer's statements denoted lack of respect for the Constitutional Court and its decision.

While trying the case, the European Court of Human Rights assessed that the restriction on the applicant's freedom of expression did not constitute “a pressing social need” and that the national authorities have not furnished “relevant and sufficient” reasons to justify it. Since the applicant has not gone beyond the bounds of acceptable criticism under Article 10 of the Convention, the interference in issue cannot be regarded as having been “necessary in a democratic society.” And it ruled that there had been a violation of Article 10 of the Convention. At the same time, the Court assessed that the finding of a violation constituted in itself sufficient just satisfaction for any non-pecuniary damage which the applicant may have suffered. Also, it did not decide the recovery of other expenses.

Case of Busuioc vs. Moldova

This case is especially complex by virtue of the multitude of characters considered “injured” and of some “defamatory” expressions.

The stories published by Valeriu Busuioc in the weekly “Express” in 1998 emphasized the problems related to the management of Chisinau International Airport, the institution's staff policies, and the professionalism of the airport's management. A part of the

mentioned officers, including the airport's management, appealed to courts of law to oblige Valeriu Busuioc to deny the expressed opinions and facts, and requested that the journalist be sanctioned with compensation of the damages caused to them. The Moldovan courts satisfied in general the officers' claims and obliged the journalist to pay damages in the total amount of MDL 2,600.

Unlike the national courts, the European Court examined differently the “statements of fact” and the “value judgments,” confirming its case-law according to which “value judgments” may not be declared as “true” or “untrue,” and so, the journalist may not be obliged to prove that his opinion is or is not in accordance with the truth.

Regarding several passages from Busuioc's story, the Court underlined that it “(74.) takes the view that the impugned passages amounted to the expression of an opinion or value judgment whose truth, by definition, is not susceptible of proof. While such an opinion may be excessive, in particular in the absence of any factual basis, this is not the position in the present case. The Court finds that the applicant acted in good faith and in accordance with the ethics of journalism and that it has been shown that there existed a reasonable factual basis for the opinion expressed.”

But this complex decision is important not only for the judges, for whom it is necessary to learn finally how to apply the law correctly, but also for the journalists. The Court assessed in a number of episodes of the case that the journalist was wrong; he had not verified the facts enough, although he could have done so, and consequently, his opinions were excessive. In the specified cases, in light of Art.10, ECHR justified the sanctions applied by the national courts. As these aspects seem especially instructive for the journalists, we will illustrate with examples how the Court ruled:

„(i) Regarding I.V. 67. (...) stating that I.V. had been given a job at the Airport only because he was a relative of the Chief Executive, and that a new position had been created especially for him (...). 68. The Court takes the view that the impugned passage contained statements of fact and not value judgments. 69. Even though the applicant's comments were made as part of a debate on an issue of public interest, there are limits to the right to freedom of expression where an individual's reputation is at stake and the applicant had a duty to act in good faith and to verify any information before publishing it. 70. It appears that the applicant did not verify the information before publication which, as a journalist, he ought to have done. The applicant himself admitted during the domestic proceedings to having published inaccurate information as regards the family ties between the first and the sixth complainants, without even trying to persuade the courts that he had made reasonable attempts to verify the information. 71. In essence, by publishing the impugned statement, the applicant accused I.V. of nepotism and induced readers to believe that he was employed not for any personal qualities but only because he was a relative of the Chief Executive. These were serious allegations, going to the heart of I.V.'s personal and professional reputation. 72. Accordingly, the Court concludes that the interference could be considered as justifiable in terms of Article 10 of the Convention.

(...) (iii) Regarding C.V. 76. (...) the applicant stated that C.V. was not qualified for his job. In particular the applicant stated that C.V. had been appointed as the Manager of the Services Purchase Unit even though he was only qualified as a veterinary surgeon.

The domestic courts found that C.V. had in fact graduated from a School of Business (...). 78. It appears that the applicant did not verify the information before publication which, as a journalist, he ought to have done and that the information proved to be inaccurate and could be considered as offensive and damaging to the reputation of C.V. In essence, by publishing the impugned statement, the applicant sought to convey to readers that C.V. was incompetent due to his inadequate professional background, namely that of a veterinary surgeon. In that respect the applicant also made a value judgment based on the stated fact, suggesting that the appointment of a wholly unqualified person was illustrative of the fact that in a corrupt system everything was possible. The Court notes that the applicant himself admitted during the domestic proceedings to having published inaccurate information in regard of C.V.'s professional background and did not seek to persuade the courts that he had made any reasonable attempt to verify the information before publication. 79. Accordingly, the Court concludes that the interference could be considered as necessary in a democratic society".

We draw the conclusion that a journalist will not be able to win a lawsuit in Strasbourg if he does not conduct a reasonable investigation of the invoked facts, and if he does not observe the professional ethics standards.

Coming back to this case in all its complexity, most assertions of Mr. Busuioc were nevertheless based on confirmed facts and the approached aspects were of public interest. As a result, the Republic of Moldova was obliged to pay to the applicant over EURO 5,600 in pecuniary and non-pecuniary damages, and in respect of the costs and expenses incurred before the Court.

Case of Savițchi vs. Moldova

On 2 October 1999, the Russian language newspaper "Novyi Poryadok" (*The New Order*) published a story entitled "Traffic Police – My Star," signed by Julieta Savițchi. A policeman, G.R., considered himself defamed and lodged a civil action against the newspaper and the journalist. The author and the editorial board of the newspaper stated that the story limited itself to narrating the story of a person named Victor, the victim of a road accident. Victor gave evidence to that effect. They further stated that the story could in no case harm the reputation of G.R., as he had been mentioned in the story only by the diminutive "Jora." However, the national courts decided that the newspaper had to publish a retraction and to pay damages to G.R. The Court of Appeal found that the following two statements were defamatory and did not correspond to reality: "... this sergeant-major Jora, who treated him as a man from the lowest strata, almost as a nonentity" and "he threw the driver's licence in Novac's face, shouting like a madman."

In its decision, the European Court drew attention to the fact that the punishment of a journalist for assisting in the dissemination of statements made by another person in an interview would seriously hamper the contribution of the press to discussion of matters of public interest and should not be envisaged unless there are particularly strong reasons for doing so. Bearing in mind the moderate language used by the applicant and the fact that it does not appear that she acted in bad faith with the purpose of defaming G.R., the Court takes the view that there were no particularly strong reasons for applying sanctions against her.

The Court further notes that one of the statements found by the Moldovan courts to be defamatory cannot be regarded other-

wise than as a value judgment, and that the meaning of the other statement is ambiguous. ("The second statement: "He threw the driver's license at Novac's face, shouting like a madman" can have a double meaning in Russian. Namely, it can either mean that the driver's license was actually aimed and flung into Victor's face (which would be a statement of fact), or it can mean that the driver's license was given to Victor in an impolite way (which would be a value judgment). However, the Court is ready to assume that the second sentence constituted a statement of facts and that, thus, the applicant had the duty to prove its truth. In this regard, the Court notes that the journalist tried to bring evidence by putting forward a witness, Victor. However, the national courts did not pay any attention to his testimony, treating it as irrelevant. By doing so, the Moldovan court deprived the applicant of the opportunity to adduce evidence to support her statements. The Court thus considers that the Moldovan courts interfered with the journalist's right to freedom of expression in a manner which was not necessary in a democratic society.

As a result, the Court concluded that there was a breach of the provisions of Article 10 and awarded the applicant EURO 3,000 in respect of pecuniary and non-pecuniary damage, and EURO 1,500 for representation costs.

Case of Christian Democratic People's Party vs. Moldova

Although this case was tried under Art. 11, the Court underlined that Art. 11 must be examined in light of Art. 10: "The protection of opinions and the freedom to express them is one of the objectives of the freedoms of assembly and association as enshrined in Article 11. That applies all the more in relation to political parties in view of their essential role in ensuring pluralism and the proper functioning of democracy".

Regarding one of the arguments brought by the Government as justification for the suspension of the CDPP, and namely that the Hymn of the Loafer (*Better be a slacker than a traitor / Better be a hooligan than a dictator / Better be a loafer than an activist / Better be dead than a communist*) would be an instigation to violence, the Court stated the following: "The Court is not persuaded that the singing of a fairly mild student song could reasonably be interpreted as a call to public violence. Neither the Ministry of Justice, nor the domestic courts have attempted to explain how this would have been possible."

CDPP did not request repair of damages for the violation of its rights, the state is however to pay from its budget the lawyers' fees in the amount of EURO 4,000.

Perspectives

A sound evolution of things after a country is condemned at European level is attested when no more violations similar to those established by the European Court take place, or their number significantly decreases. We are satisfied to observe that, after the country's first convictions at Strasbourg, defamation disputes are tried much more carefully in the Republic of Moldova, too. Some even speak about the other extreme: if the press was losing most of the cases a few years ago, it now wins many of them after a superficial examination. In my opinion, there is no doubt that things are improving, and that these convictions do not represent only an image and financial blow for the country, but also a chance to live in a civilized world.

Petru MUNTEANU,
Lawyer, Center for Journalistic Investigation

Corruption and illegal secretization of information go hand in hand

The Journalistic Investigation Center (at that time, it was carrying out its activity within the Association of Independent Press) requested from the Anti-Economic Crime and Corruption Center (CCCEC), back in February 2004, information about the amount of its employees' salaries. CCCEC did not present these data on the grounds that "the amount of salaries of the Center's employees is stipulated by Decree of the Government of the Republic of Moldova and, based on the executive body's decision, may not be made public." CIN contested in court, on 21 April 2004, CCCEC's refusal to present this information.

We will not insist on the evidence. We will just specify that CCCEC's main argument for justifying its refusal to present the requested data was the state secret law. We, in our turn, stated that, according to Law no. 982/2000 on Access to Information, the exercise of the right to access information may be subject only to the restrictions imposed by organic law. At the same time, we showed that the defendant did not prove the existence of state secret according to the procedure set up by the Law with the same name. The first instance court, Chisinau Court of Appeal, rejected the CIN request as groundless. We appealed the decision of the first instance court. The Supreme Court of Justice quashed, on 1 December 2004, the Court of Appeal's decision, returning the case for retrial by another panel of judges. During the retrial, the government decree marked as secret was presented at the court's request. Thus, we found out that it does not contain direct information about the size of salaries of Center's employees, but only stipulates their payroll categories. This time, the Chisinau Court of Appeal pronounced, on 7 February 2005, a decision by which it obliges the Center to provide the information on the size of salaries of CCCEC employees. The long trial, however, did not end here: CCCEC appealed the decision to the Supreme Court of Justice. In the end, by its decision of 22 June 2005, the Supreme Court of Justice quashed the appeal and upheld the decision of the first instance court. The Supreme Court's decision is irrevocable.

Confidentiality of the salary

A basic conclusion can be inferred from this case, namely: the information supplier may not restrict access to information by simply invoking the state secret law. He must prove it, too. And the process of proof is complex and rigorous. As a matter of fact, it seems that those who invoke the state secret law as the reason for their refusal are not even aware of such exigencies. We deduce this also from the Center's argument: its refusal to

present the information was first justified by invocation of the state secret law and ended with references to the confidentiality of the salary.

The exercise of the right to information in the Republic of Moldova has already outlined several categories of information, which the authorities refuse to make known and which make up a kind of grey zones of the public life. Among these is the staff policy against certain positions in administration and justice, as well as the salaries of certain officers.

We must avoid the extremes. The government authorities had been accepting corruption, which was a result of meager salaries, though they publicly decried it. Even after increasing salaries of employees of the Anti-Economic Crime and Corruption Center, these were declared secret. CCCEC's refusal to present data about the salaries of its employees, unfortunately, does not represent an exception. This is why a few specifics are required here.

According to Art.128 para.(3) of the Labor Code, the salary is indeed confidential. This provision must however be interpreted in the sense that the salary of a specific natural person is confidential but by no means are the salaries of certain professional categories or subcategories secret: criminal prosecution officers, mayor's office secretaries, doctors (surgeons, oculists, therapists...) etc. Otherwise, if following CCCEC logic, we should conclude that salaries in the Republic of Moldova are in general a taboo subject. Or the legislator of the Labor Code wanted just to protect the private life of an identified person (more specifically, the financial component of the private life) and not to deprive the people of a type of official information without which they cannot know the real situation of the country's economy, the population's living standards and, as a result, *cannot form an adequate image and critical opinion about the state of the society in which they live and about the public authorities that govern them* (Recommendation Rec(2002)2 of the Committee of Ministers of the Council of Europe to the Member States on access to public documents).

Let us bring an example. The parent of pupil X requests from the director of the secondary school Y information about the salary of the math teacher Z. In this case, the information supplier will satisfy the request only with the written agreement of the respective teacher. His right to consent is provided by Art. 8 para.(3) letter a) of the Law no. 982-XIV of 11 May 2000 on Access to Information and by Art. 92 letter a) of the Civil Code. In absence of the teacher's written agreement, the access to information will be denied. The legal grounds for the refusal will serve the already mentioned Art. 128 para.(3) of the Labor Code, as well as Art. 7 para.(2) letter c) of the Law on Access to Information. If, however, the parent of pupil X requests from the Ministry of Education data about the salaries of math

teachers in secondary schools, this information will have to be provided. In this case, when we are not dealing with personal character data – a certain person's salary – but with the salary of teachers of a certain specialty from general education, there are no grounds to deny access to such information.

A particular case is the salary for one-man public offices. According to some opinion, the access to such information must be denied because its publication inevitably leads to disclosure of the salary of the person holding the respective office. We do not share this point of view. First of all, we would like to mention that a more accurate or more approximate deduction regarding the size of the salary is possible not only for one-man functions, but also for functions including hundreds and thousands of employees. Thus, if a newspaper publishes data offered by the Ministry of Culture about the salary of librarians, we obviously can reach more or less accurate conclusions about the salary... of our next door neighbor, who is a librarian. Thus, this argument does not stand. It also denotes arrogance because those that justify it place an equal mark between themselves and the functions they hold. We say it this way: employees come and go, but the functions, be they even one-man, stay. And if we take into account that one-man functions are, as a rule, managerial ones, the public interest in such information is even more justified.

Western democracies offer an indisputable argument with regard to admission of access to such information: the allowance rate of the head of the state or of the prime minister is published directly on the official website of the president's office or that of the prime minister.

Government decrees omitted from publication

As far as proving the restriction of freedom to information concerns, the Law on Access to Information institutes the *ei incumbit probatio qui dicit, non qui negat* rule. Thus, according to Art.7 para.(4) of the Law, *no restrictions shall be imposed on the freedom of information unless the information supplier can prove that the restriction is regulated by organic law and necessary in a democratic society for the protection of human rights and legitimate interests or of the national security, and the harm caused to such rights and interests is bigger than the public interest in knowing the information.* This norm reconfirms one of the principles of the democratic state: the access to information is the rule, while the restriction thereof – the exception.

The information supplier that refuses to present the information on state secret grounds must prove the observance of the principle of legality of secrecy. According to Art. 6, para.(2) of the Law no. 106-XIII of 17 May 1994 on State Secrets, *the lawfulness of secretization of information consists in the compliance of the information being made secret with the provisions of articles 5 and 8 of the Law.* Art. 5 establishes the information that can be attributed to state secrets, whereas Art. 8 – the procedure of attribution of information to state secrets. Thus, the information supplier must name:

1. the heads of the state administration bodies (according to the Nomenclature of responsible persons empowered to attribute information to state secrets) who have attributed the respective information to state secrets;

2. area and category from those listed in Art. 2 and Art. 5 of the State Secret Law, to which the respective information can be attributed;
3. point, sub-point in the Nomenclature of information attributed to state secrets, which includes the respective information.

Information suppliers often do not comply with this rigor: the information made secret can by no means be included in the areas stipulated by Art. 5 of the State Secret Law. Moreover, the Nomenclature of information attributed to state secrets has not been published. And then they resort to the same justifying formula invoked by CCCEC in the presented case. Thus, they assert that the requested information constitutes a state secret and is contained in a government decree, and according to Art. 3 of the Law no.173-XII of 6 July 1994 on the procedure of publication and enforcement of official documents, the official act whose content constitutes a state secret is communicated only to the interested institutions.

To justify the refusal, reference is also made to the Decision of the Constitutional Court no.4 of 4 February 1999 (Official Monitor of the Republic of Moldova no.22-23 of 4 February 1999). In this decision, the Constitutional Court *"mentions that they (legal acts containing state secrets – our note), as stipulated by the law on the procedure of publication and enforcement of official documents, are not published."*

Without intending to teach law to the Constitutional Court, we dare say however that this "mention" does not clear up things. On the contrary, the failure to publish the decrees of the Moldovan Government in the Official Monitor remains one of the most serious handicaps of our constitutional democracy. This problem has not been solved yet, while the interest in the information contained in the unpublished government decrees does not decrease but grows.

First of all, let us specify that, according to Art.1 para.(1) of the Law on the procedure of publication and enforcement of official documents, the term "official documents" includes *"laws promulgated by the President of the Republic of Moldova, decisions of the Parliament, decrees of the President of the Republic of Moldova, decrees and orders of the Government, acts issued by the Constitutional Court and Court of Accounts, legal acts of central specialized bodies of public administration, of the National Bank of Moldova and of the National Commission for Exchange Securities, international acts."*

According to Art. 3 of the same law *"the official document whose content constitutes state secrets enters in force on the date of its adoption or on the date provided therein, and is communicated only to the interested institutions. If certain titles, chapters, articles of the official document contain state secrets, they are omitted from publication, with the indication "state secret" in their stead."*

This law is, however, antecedent to the Constitution of the Republic of Moldova which, in Art. 102 para.(4), states that *"decrees and ordinances adopted by the Government are signed by the Prime Minister, are countersigned by the ministers responsible for their execution, and are published in the Official Monitor of the Republic of Moldova. Failure to publish a decree or ordinance brings about its inexistence"*. The Fundamental Law is clear and specific enough – *in claris non fit interpreta-*

tio. Thus, from the moment the Constitution entered in force, government decrees cannot any more be part of the category of official documents whose content constitutes state secrets and implicitly are omitted from publication. A fortiori laws cannot contain state secrets; under the same sanction of inexistence, laws are published in the Official Monitor (Art.76 of the Constitution). At the same time, we think that neither the decrees of the Moldovan President can be omitted from publication on the grounds of containing state secrets. According to Art.94 para.(1) of the Constitution, although not under the express sanction of inexistence, President's decrees are also published in the Official Monitor of the Republic of Moldova.

The Government's "example" of not publishing certain decrees under the state secret excuse has had a "snowball" effect – both the central and local public administrations have also omitted from publication a series of their own legal acts. Although the state secret law was not invoked this time, the real reason was the same as the one for which many government decrees are not published: lack of the necessary legal support for subsequent legal acts.

The Court of Accounts is situated at the end of this vicious circle. Although according to Art.4 para.(1) of the Law no.312-XIII of 8 December 1994 on the Court of Accounts, this authority has unlimited access to acts, documents and information; according to para.(3) of the same article, if the Court of Accounts takes notice of information that constitutes a state secret, it is obliged to observe their character and to make them known only to the empowered authorities. In these conditions, many decisions of the body that controls the procedure of formation, management and use of funds have been omitted from publication or have been published only in fragments, due to the fact that the information it makes reference to is contained in government decrees made secret.

A few attempts have been made by the authorities to change this situation. These are however inconsistent and contradictory. Thus, due to the fact that many of the legal acts omitted from publication were related to the economic sector and their large number had become an impediment to the development of small and medium-sized business, the Moldovan Parliament adopted in December 2004 the Law no. 424-XV on the revision and optimization of the legal framework regulating entrepreneurial activity. The main revision criterion was the publication of the legal acts issued by central public authorities in the Official Monitor. More familiarly known as the "legislative guillotine," this law aims at ordering the legal framework regulating only entrepreneurial activity. Thus, the legislature refuses to offer a general solution for all unpublished legal acts, mainly government decrees, regardless of the subject-matter of their regulation. Should we recall at all that, it being itself the result of corruption, the welter of the regulations omitted from publication favors, in its turn, corruption?

Another singular example of sanctions being applied against illegal secretization is offered by the Constitutional Court. On 8 July 2004, the Government adopted the Decree no.782-37 "On the regulation of the situation in the telecommunication networks of Moldova" by which it obliges the State Registration Chamber to register the joint-stock company "Interdnestrcom," and the National

Agency for Regulation in Telecommunications and Informatics to issue the necessary activity licenses to the same company. The Decree was not published, being marked "secret." By the Decree no.1936-III of 27 July 2004, the President of the Republic of Moldova suspended the government decree and referred it to the Constitutional Court. To prove the unconstitutionality of Decree no. 782-37, the author of the referral, among other arguments, invoked the fact that "by conferring a secret character to the said Decree, the Government violated the provisions of Art. 34 of the Constitution "Right to information", and through the confidential identification of a new operator and granting of a license thereto, it affected the transparency of the activity in the field of telecommunications..." The Constitutional Court, in its turn, held in its Decision no. 21 of 2 September 2004 that "contrary to Art. 34 of the Constitution, which guarantees the right to information, the Government made secret its Decree no.782-37. According to Art.34 of the Constitution, a person's right to have access to public interest information may not be restricted. Moreover, the public authorities are obliged to ensure the correct information of people about public affairs". Thus, the Constitutional Court's decision continues, the secretization of Decree no. 782-37 has created an uncertain situation with regards to the right and access to information, (and) has affected the transparency of the activity of the central public administration authority and the loyal competition... The Constitutional Court declared the Government Decree no.782-37 of 8 July 2004 unconstitutional.

We cannot help asking ourselves: why did those entitled to refer matters to the Constitutional Court not do so for the other government decrees marked as secret? Is Art.34 of the Constitution not violated in their case? Does their non-publication not affect the transparency of the Government's activity? This exception does not prove consistency in the protection of the right to information but rather a selective application of Art.34 of the Constitution.

The conclusion inferred from the cases presented above is that the offered solutions are rather palliative and do not eliminate the cause of the problem – neglect of the Constitution, which states that failure to publish government decrees brings about their inexistence.

Let's try to approach the problem in a different way. Thus, according to the Constitution in force, government decrees are published in the Official Monitor of the Republic of Moldova; their non-publication brings about their inexistence. Let us admit, however, that the regulation needs and the hierarchy of the legal force of legal acts impose the inclusion of information that constitutes state secrets in government decrees. Do these rationales of legal technique justify the neglect of the Constitution? Absolutely not. The difficulty can be solved by amending the Constitution, and not by infringing thereupon. The Constitution of Romania, for example, provides in Art.108 "Government acts" that the decrees of military character shall be communicated only to the interested institutions.

A solution would be to include in the Constitution an express exception to the rule of publication of government decrees. We stress however that, in order to avoid abuses, a univocal and exhaustive enumeration of the categories of information that may determine the secretization of government decrees is

necessary. Otherwise, we may again find ourselves in situations when such information as granting of licenses or increase in salaries is made secret.

Corruption and illegal secretization go hand in hand

A last remark. According to Art.8 para.(3) of the State Secret Law, *in order to promote a single state policy in the field of secretization of information, the Government sets up an interdepartmental commission for the protection of the state secrets, which develops the Nomenclature of information that is attributed to state secrets. This Nomenclature is approved by the President of the Republic of Moldova, is published and revised as necessary. The Nomenclature indicates the state administration bodies empowered to possess the respective information.* Para.(4) of Art.8 also provides that *the state administration bodies whose heads are empowered to attribute information to state secrets, develop detailed departmental nomenclatures with the information to be made secret. These nomenclatures include the information the above-mentioned bodies are entitled to possess and establish their level of secretization. The respective nomenclatures are approved by the respective heads of the state administration bodies and are not published.* According to Art.9 para.(1) of the same law, *as grounds for the secretization of information and the marking of documents, products and works as secret serves their compliance with:*

- a) the Nomenclature of the information that is attributed to state secrets;
- b) the departmental Nomenclatures stipulated by Art.8 para.(4).

So, the nomenclatures – one general and public, the others – departmental and secret – fulfill an essential function in ensuring the legality – the information may not be made secret if it is not stipulated thereby. Although over ten years have passed since the adoption of the State Secret Law, the Nomenclature of the information attributed to state secrets, approved by the Decree of the President of the Republic of Moldova no.147 of 5 June 1996, has not been published.

In the absence of the Nomenclature, the right of access to information may not be exercised freely and efficiently. By sanctioning the public character thereof, the legislation followed a

double purpose. On one side, it wanted to exclude the abusive secretization of information; on the other hand, it offered to the applicant for information a legal instrument for checking the grounds for the denial of access to information with implication of the state secret. The failure to publish the Nomenclature in over ten(!) years from the adoption of the State Secret Law cannot anymore be ascribed to difficulties and negligence; it proves the intention to breach the law. And the pursued interest is exactly opposite to the legislator's goal presented above.

One of the causes of corruption, maybe even the main one, is the lack of transparency in the activity of the public administration. This truth is also acknowledged in the National Strategy for the Prevention and Combatting of Corruption, approved by Decision of the Parliament of the Republic of Moldova no. 421- XV of 16 December 2004, which emphasizes, among the institutional causes of corruption, *the lack of transparency in the activity of central and local public administration, in the law-enforcement bodies, excessive freedom granted to the decision-making factors, reduced possibility of unmasking corrupt persons...* This establishment of facts is also an implicit acknowledgment of the restriction of the access to information.

For many years in a row, the Power has been promising to open the governing system to the citizens. The authorities' attitude and concrete facts prove, however, the contrary. Can we speak at all about observance of the right to information, stipulated by Art. 34 of the Constitution, when Art. 102 of the same Constitution, providing for the publication of government decrees under the sanction of their inexistence, is violated? Can we speak about the lawfulness of secretization when, to the detriment of the provisions of the Law no. 106-XIII on State Secrets, the Nomenclature of information attributed to state secrets is not even published?

In fact, in the conditions in which the Nomenclature is not published, it is imperative that all the information made secret since the adoption of the State Secret Law be revised.

Who must launch such a control? The answer can be found in the same State Secret Law. According to Art.30 para.(1), *the supervision of the observance of the legislation on protection of state secrets and the lawfulness of the decisions made in this regard shall be exercised by the Prosecutor of the Republic of Moldova and the prosecutors subordinated thereto.*



Photo: IJC

Seminar "Investigative journalism," held by Alexenia Dimitrova (Sofia, Bulgaria), Media Consultant and Investigative Reporter of the daily "24 chasa", and Vitalie Dogaru, Reporter for the radio station "Free Europe" - Chişinău, Lecturer at the Department of Journalism and Communication Sciences of the State University of Moldova (October 2005)

“The media business is a serious one and should not be treated superficially”

Interview with Alexandru Tanas, Director of the News Agency INFOTAG, Editor-in-Chief of the magazine “B&F-Profit”

- Mr. Tanas, you lead two prosperous media institutions. How have you managed to become a successful media manager?

- I think that my success has been determined by the favorable market juncture upon the appearance of the publications I have been leading as well as by the hard and consistent work carried out during all these years by the staff of INFOTAG and “B&F-Profit.” An important role has also been played by the fact that INFOTAG and “B&F-Profit” were from the very beginning conceived as businesses, and not as manipulation tools. Unfortunately, many of those who launched media businesses more than ten years ago have fallen into the trap of political events, and the respective mass media, although having made promising starts, have slowly been ‘swallowed’ by politics, becoming rostrums for certain political leaders and entities. This interference of politics with the activity of mass media, as well as the incapability of the press to cope with the interference of politics in its activity, has been the main impediment to the development of Moldovan mass media in the years of independence.

- How did you decide to launch out in the media business as manager?

- It was a game of chance. In 1992, Anatol Golea, currently Deputy Director of INFOTAG Agency and First Deputy Editor-in-Chief of “B&F-Profit” and I were reporters for the state agency ATEM. We were often writing about the events related to the Transnistrian conflict, which was in active phase at that time; that is, there was an armed conflict on the Nistru where people were dying. Our news was being received both locally and by clients from abroad. Many times, those from abroad wanted to know more about the conflict and were calling up the agency. The management was directing them to us, the authors of the news. We were telling them details and every time they would ask us why we were not writing those details in the news. We could not explain to them that ATEM was an official state structure, where you cannot say everything you want, especially since not much time had passed since the break-up of the USSR, and we were not advanced in matters of democracy. At the same time, we could not leave the requests of the foreign subscribers without answers. Thus, the idea came to launch on the media market, which at that stage could not even be called a market, an alternative source of information – the INFOTAG agency.



Photo: IJC

Prize for the best development, in 2005, of the magazine “B&F-Profit,” awarded by the Independent Journalism Center and Press Freedom Committee

- Where did you get the start-up capital?

- At that stage, when people were asking us where we got the initial capital, we often joked about having a German investor. This is because “tag” means “day” in German. In reality, three people brought their financial contributions to the set-up of INFOTAG – Anatol Golea, the journalist Dumitru Ciubașenco whom we managed to convince about the opportunity of launching the first private press agency on the Moldovan market, and I.

- As far as we know, the first private agency was BASA-press...

- Officially, this is so because BASA-press was registered in 1992. We appeared a few months earlier but officially registered only in 1993, as there were a few technical moments, which characterized the agency’s first period of activity.

- Other press agencies came out later. Was it hard to stand up to the competition?

- In general, we did not feel that competition to any great extent. We had come out first on the market and had already a name and a position when others came. Therefore, all we had to do when our competitors appeared was to maintain the same quality of our informational products, or even to improve

them here and there. Although I must admit that there were a few unpleasant moments related with the competition. For instance, there was a case when a press agency tried to “break the ice” and sell its informational product at a price ten times lower than the one usually practiced on the internal market. There was a danger that many clients would opt for a lower price, and some did so. However, things cleared up along the way, and the clients that had chosen a lower price understood that what costs less is of a corresponding quality. There have also been other unpleasant situations related with the practice of dumping on the market segment taken by news agencies. Some elements of this dumping are present even today, but they do not produce effects. This is because the clients of news agencies are a category of people who are truly aware of all the events that take place in this segment of the market and know how to make the right decision every time this is necessary.

- How did the magazine “B&F-Profit” come out?

- In the first years of independence, the practice was to include representatives of the business circle in official delegations. Thus, a representative of the Moldovan business circles happened to participate in a meeting of the governmental delegation of Moldova with the representatives of a prestigious international financial institution. During the discussions, the issues of inflation and of other macroeconomic indicators were approached, and, at a certain point, the foreign experts made reference to the data, forecasts and analyses released by the INFOTAG News Agency from Chisinau. This probably surprised the businessman I mentioned above and, upon his return home, he contacted us and said that it would be good if the Moldovan public at large also had access to such competent data and analyses, and not only a restricted circle of people from abroad. Thus, the idea came to publish the magazine, which at the beginning was called “Bănci și Finanțe” (“Banks and Finances”). Initially, starting with 1995, it represented a small bulletin, which included only the economic information issued by INFOTAG. Later, we began to publish the magazine in A5 format and from 1998 in A4 format, registering it, at the same time, as a separate business, and not as an informational supplement of INFOTAG.

- And how has “B&F-Profit” come to be one of the leading economic periodicals in Moldova?

- We have always estimated our possibilities accurately and this has helped us to develop and grow. Had we entered the market with much pomp from the start, publishing a magazine in lively colors, with many pages, but without having the necessary financial coverage, we would have probably gone bankrupt in a few months from our appearance. We preferred to develop slowly, according to our possibilities. Thus, we have grown, during 11 years, from a small black and white bulletin, which was covering a few pieces of economic news, to an A4

color magazine, with about 200 pages per month, with competent analyses and forecasts, and with a certain reputation among our readers.

- How do you manage to attract the companies that place advertising in the magazine, because you have a lot of advertisers?

- Our relationship with advertisers is mutually advantageous. The client's interest is as important to us as to them. And we permanently endeavor to promote this message. The motto of our magazine is “Learn to make money easily.” This motto is appreciated both by our clients and by our readers. We probably manage to stay with this motto through the content of our magazine; otherwise, I would not be able to explain the increasing interest in our publication.

- Is it difficult to do media business in Moldova?

- It is not easy because not all necessary conditions are present yet in our country to run a successful media business. First of all, this involves the economic condition of the population, which cannot afford to subscribe to periodicals to the extent it was able to, for example, twenty years ago. Secondly, the potential sales market for media products on a national level is a relatively small one. Thirdly, the mentality of economic agents is to blame because many of them are not aware yet of the beneficial effects of advertising and do not turn to mass media services in this regard. Besides, there is a category of economic agents, a rather important one, whose economic condition does not allow them to use advertising services.

Not in the least does this also involve the legal provisions that impede the development of press as a business. For example, the issue of exemption of the press from VAT has been raised repeatedly, but nothing has been solved. On the contrary, attempts are made from time to time to increase the tax burden for the press. In this context, I can recall only the decision of municipal authorities of over a year ago on the increase of the advertising tax. Thank God this decision was revised in time, for had it been left in force, the situation of many media bodies would have become lamentable.

- Is the media market attractive for potential investors?

- Based on what was said above, I think not.

- Does this mean that things have already been established and the spheres of influence have been divided on the Moldovan media market, and so, there is no place left for new businesses?

- There is always place for well-thought media businesses. What is important is that they are conceived as businesses and are not based only on emotional arguments. That is, those who get involved in the media business must evaluate correctly the situation of the market, establish strictly their place in this

market, see what their possibilities are, what investments will be necessary in the first period of activity, in what real time they will be recovered, how they will surpass the administrative and other obstacles, etc. The media business is a serious one and should not be treated superficially.

- In what other media business would you personally invest?

- I would probably invest in a TV station. But only on the condition that there are free, attractive frequencies and the influence of political factors on the administrative body of the audiovisual media is diminished. Television in Moldova, as anywhere in the world, has prospects, including digital television, which will arrive, sooner or later, in our country as well.

- If TV stations are so attractive for investments, why does practically nobody invest in them?

- For the reasons I have already set forth – the political factor's strong interference with the administration of broadcasting and the absence of attractive frequencies. There is one more aspect – those that could invest lack money, while those that have the money do not believe in the profitability of such investments or, better to say, do not want to take the risk. Of course, there are exceptions, but their number is extremely low.

- When will the media business be profitable in Moldova or, to put it differently, when will the right conditions exist in Moldova so that the media business is, in general, profitable?

- This depends on the economic development as a whole. If the economy develops normally, the population's living standards will also improve. Thus, people will not think only about what they will eat tomorrow, but will begin to subscribe to newspapers, to paid TV stations, to pay dues for the funding of public radio and TV stations. In parallel, there will appear many prosperous economic agents, which will give an impetus to the Moldovan advertising market. Not to mention that once the society develops as a whole and Moldova gets closer to the European standards, the legal framework on mass media's activity will improve and correct relations will be set up between the press and various state bodies.

I understand that many years are necessary for all these transformations to take place, but I am an optimist and hope to live to see those times.

- Thank you for the interview and good luck in the future.

***Signed by:
Igor Volnițchi***